

these changes would bring about further improvement in the management and functioning of these units.

11.04 hrs.

CONSTITUTION (FORTY-SECOND AMENDMENT) BILL

MR. SPEAKER : Now, I take up the Bills for consideration. The first one is the Constitution (Forty-Second Amendment) Bill, 1976.

SHRI DINEN BHATTACHARYYA (Serampore) : Sir, I wrote to you earlier in this connection. Before you take up this matter, I want to make a submission. Sir, originally it was mentioned that it was the Forty Second Amendment Bill. But today it has been circulated stating that it is the Fortieth Amendment Bill. In a hurry, they have made this mistake even while mentioning the Amendment Number. Then you will find that in the Schedule, there are so many Acts. I think there are 64 or 65 Acts which will be included now in the Ninth Schedule, two of which are the most objectionable ones. They are the Prevention of Objectionable Matter Act 1976 which we have very recently passed and the Departmentalisation of Union Accounts Act, 1976. This Act has also been very recently passed. A majority of these Acts are the State Acts. Sir, we are not lawyers and we have not gone through these laws. No statement has been made as to what are these laws for which it is necessary for the Government to include them in the Ninth Schedule. I have no quarrel with the Government on this. If they want to include these laws relating to the land reforms, I have no objection but those things should be circulated earlier. Sir, you might have read in the newspaper very recently that in the West Bengal, the State Government has tried to make a law to the effect that the lands which were transferred in the name of benamdars by all those landlords who had excess lands would be regularised.

That law is coming. There are differences between laws and bills. All of a sudden all these laws are being included in the ninth schedule and we are being asked to pass this Bill. My humble submission is, keep it in abeyance. Let us know what is contained in these Acts and the merits of each Act. Then we can pass a judgment on them. Copies are not available in the library. The copies should be circulated first. You may kindly consider it as you considered yesterday and postpone it.

MR. SPEAKER : I left it to the House yesterday.

SHRI DINEN BHATTACHARYYA : I request Mr. Raghu Ramaiah not to issue any whip. If the members are honest and if they feel there is some justification in my submission, they should not vote for it.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD) : Copies have been made available in the Library of Lok Sabha. I do not think it is a matter which should be postponed.

MR. SPEAKER : Have they not been circulated to the Members?

DR. V. A. SEYID MUHAMMAD : These are State Acts and copies are available in the Library.

MR. SPEAKER : These are State Acts and are kept in the Library. The Minister has given a solemn assurance in the House that they are available in the Library. There is no need for postponing it. I cannot use my discretion for postponing the Bill. The minister may move it.

DR. V. A. SEYID MUHAMMAD : Sir, I beg to move:

"That the Bill further to amend the Constitution of India be taken into consideration".

[Dr. V. A. Seyid Muhammad]

Clause 2 proposes to substitute article 297 of the Constitution by a new article including in it a new expression "exclusive economic zone of India". Sub-clause (2) further states that "all other resources of the exclusive economic zone of India shall also vest in the Union and be held for the purposes of the Union." Sub-clause (3) states :

"The limits of the territorial waters, the continental shelf, the exclusive economic zone and other maritime zones, if India shall be such as may be specified, from time to time, by or under any law made by Parliament."

Clause 3 of the Bill proposes to include in the ninth schedule the Acts mentioned in the schedule as items 125 to 188 in the schedule.

Regarding the amendment to article 297 which is proposed, the main amendment is, along with the continental shelf and territorial waters, exclusive economic zone has to be included. The concept of exclusive economic zone has become almost universally accepted particularly in the interests, of the developing nations. What is proposed to be done is, in this exclusive economic zone, the Indian Union will have sovereignty and special rights.

Sub-clause (2) states that apart from what is mentioned in clause (1) namely, the wealth underlying the continental shelf, territorial waters and exclusive economic zone, there would be other wealth in the zone. Thirdly, it defines the limit of the territorial waters, continental shelf and economic zone and other maritime zone. These are the provisions of the proposed amendment of article 297. I need not elaborate the object of this amendment because in the recent times especially after the Second World War, there has been considerable demand by the developing countries which is, to a large extent, supported even by the developed countries, not exclusively, of developing or defining a

special exclusive economic zone whereby to exploit the resources of the zone, the underdeveloped or developing countries and with other countries who need such development or require such exploitation of the resources, will be safeguarded and protected. It is to bring about this universally, I must use that word, accepted necessity of the exploitation of the special economic zone that this Bill has been introduced. Regarding this only thing, I would like to make an appeal to the Members of this hon. House that delicate negotiations are going on both on the bilateral and multi-lateral basis and I am sure the Members of this House, by stringent criticisms and remarks, will not make difficult the easy carrying on of the negotiations to a successful conclusion.

Coming to clause 3, as I have already stated, this proposes to include as items 125 to 188 in the present Schedule the acts specified therein. In short, what is proposed to be done is to give protection to this Act from attacks under the Fundamental Rights, part III. The hon. Members may recall that as the Constitution (First Amendment) Act, the present article 31(b) was introduced. The main object of that article was that certain Acts which are very essential for the welfare of the State, for other essential legislations which are indispensable, the State Governments or the Central Government may have to pass certain legislation which, if tested in the strict scrutiny of the provisions of the Fundamental Right, i.e. Part III, may not pass the test. So, under the philosophy, in order to introduce essential measures, legislations will have to be passed and if certain amendment to the Constitution is found necessary, such amendment should be passed and once these statutes are put in the Ninth Schedule, they will be immune from the attack on the ground that these statutes violate Part III. That being the position, what is proposed to do now is to include these enactments which are mentioned therein as essential for various reasons which the Central Government as well as the State,

have found it necessary to introduce in the State or the Centre, as the case may be. There are altogether 63 items. These are items 125 to 188.

Clause 3 of the Bill seeks to include entries 125 to 188 in the Ninth Schedule to the Constitution.

Entries 125 to 133 refer to Central enactments, while entries 134 to 188 are different State enactments.

In the State enactments, entry numbers 137, 140, 141, 151, 153, 154, 157, 159, 160, 164 to 181 and 183 to 186 are merely various Amendment Acts and the main Acts already have been included in the Ninth Schedule. They are 26 in number.

There are 10 non-land reform or non-agrarian laws, 8 of which are Central laws (Items 125 to 133); 2 State laws are there from Kerala, items 148 and 149; and from Tamil Nadu 13 enactments are included, all of which are Amendment items 166 to 178.

With these words, I commend the bill to the House.

MR. SPEAKER : Motion moved :

"That the Bill further to amend the Constitution of India be taken into consideration".

There is a motion for circulation in the name of Mr. Dinan Bhattacharyya.

SHRI DINAN BHATTACHARYYA : Yes, Sir. I beg to move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 16th August, 1976." (7)

But why is Mr. Gokhale, the Law Minister, not himself here ?

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH) : I wanted to make a submission about the allotment of time for this Constitution (Forty-Second) Amendment Bill. I had

a discussion with the leaders of the Opposition as also with members on this side. For the sake of everybody's convenience, I suggest that the Minister—I think he will take about half-an-hour—be called at half-past-three, and the voting on consideration and clause-by-clause may proceed thereafter, upto 4 p.m.

MR. SPEAKER : There will be a lunch interval. They say that the time is not enough.

SHRI S. M. BANERJEE (Kangur) : The lunch-hour is between 1 and 2 p.m. So, the discussion will be there only for three hours. Is it not better that the Minister is called at 4.30 p.m. ? The voting can take place at 5 p.m.

SHRI K. RAGHU RAMAIAH : I have no objection. If there are less speakers, we can have a longer lunch-hour. The Minister will be called at 4.30 p.m.

MR. SPEAKER : Let us then proceed on that basis. Voting will be at 5 p.m. At 4.30 p.m. we will have reply by the Minister. Now Mr. Somnath Chatterjee.

SHRI SOMNATH CHATTERJEE (Burdwan) : But for certain obnoxious entries in clause 3 of this bill, it would have been passed, even without a discussion, so far as our group is concerned. There is nothing to oppose otherwise, although I have some submissions to make.

In the name of bringing the welfare legislations into the Ninth Schedule and making them immune from judicial scrutiny, the government is nowadays including all sorts of bills and all sorts of laws and Acts in the Ninth Schedule, to put them outside judicial scrutiny. This is an obnoxious attempt to provide the constitutional shield to some obviously palpably unconstitutional legislations which are not for the benefit of the people of this country and which nobody in his senses can say to be progressive legislations.

[Shri Somnath Chatterjee]

The 39th Constitutional Amendment Act has defiled the Constitution, as I said, on another occasion. You have polluted the Constitution by including MISA Amendment, Election Law Amendment Act and the Additional Emoluments Compulsory Deposit Act in the Ninth Schedule, and they are now trumpeting that the Ninth Schedule is meant only for the purpose of promoting welfare legislations and progressive legislation. There is another attempt which is being made today include items 125, 130 and 133. Our objection is to these items and we are seriously pressing our objection.

Before I come to that in a little detail, so far as the present amendments are concerned, as Mr. Dinan Bhattacharyya has pointed out that in a hurry, they do not even keep an account of the number of amendments they have made or they are going to make. From 1950—1970, we had 22 amendments of the Constitution. But this House, the 5th Lok Sabha, has brought about 18 more amendments, and this is the 19th one which we are going to have. Till the 37th amendment of the Constitution, the process has been, by and large, to remove the drawbacks and the difficulties that were experienced in working out the Constitution. We readily conceded the necessity for the earlier amendments of the Constitution such as the first amendment, fourth amendment, 17th amendment and 34th amendment. As far as 34th amendment is concerned, it was also for the purpose of enlarging the scope of the Ninth Schedule.

So far as this Lok Sabha is concerned, but for the 38th and 39th Amendment Bills, all of them had been supported very strongly by us. Now, the whole process has been reversed from the 38th amendment. Now the attempt is to put the executive above the law and the pinnacle was reached in the 39th amendment, when an attempt was made to put

some individuals above the law. At that time most of our Members did not attend the House, and, at the lightning speed, the Constitutional Amendment Bill was introduced in the morning and was passed almost without a real discussion. As a result of the said process, the MISA amendment also got into the Ninth Schedule, as well as other laws, which I have mentioned earlier, which cannot have anything to do with either the welfare of the people or the protection of the peoples' rights.

Of course, compared to 38th and 39th Amendment Acts, this is an innocuous Bill but for the submission that I have to make, so far as the common people of this country are concerned.

So far as Clause 2 of this Bill is concerned, it deals with territorial waters and the new concept which has developed now, that is, the concept of economic zone which is sought to be included. We have no objection to that. The only thing is that the Minister could have been a little more specific and explained for the benefit of the hon. Members what is meant by economic zone. So far as I have been able to understand, it means the area, and the degree of control beyond the territorial waters, which is necessary for the purpose of the proper development of the country or use of the natural and mineral resources etc. I have to make only one submission. When article 257 came up in the Constituent Assembly, certain observations were made by Dr. Ambedkar who was the Chairman of the Drafting Committee and one of the architects of the Constitution. The real thinking at that time was, "Why should we include a specific clause here. The idea was that some of the States, which had not been merged at that time with the Union of India, might claim certain rights in the territorial waters or beyond the territorial waters, and the object was to prevent such a claim on behalf of those States.

I am going to read from the observations which Dr. Ambedkar had made in the Constituent Assembly.

"Originally, it is always understood that the territorial limits of a State are not confined to the actual physical territory but extend beyond that for three miles in the sea. That is a general proposition which has been accepted by International Law. Now the fear is—I do not want to hide this fact—that if certain maritime States such as, for instance, Cochin, Travancore or Cutch came into the Indian Union, unless there was a specific provision in the Constitution such as the one we are trying to introduce, it would be still open to them to say: 'Our accession gives jurisdiction to the Central Government over the physical territory of the original States; but our territory which includes territorial waters is free from the jurisdiction of the Central Government and we will still continue to exercise our jurisdiction not only on the physical territory, but also on the territorial waters, which according to the International Law and according to our original status before succession belong to us'. We, therefore, want to state expressly in the Constitution that when any maritime States join the Indian Union, the territorial waters of that maritime State will go to the Central Government"

That was the objective. That problem is no longer faced by the country. But this is being included. The other objective is not made clear which I want to bring to the notice of the House.

Kindly see the language. Of course, it has never come before any judicial authority because it is not necessary to bring it before the judicial authority. It says:

"All lands . . . shall vest in the Union and be held for the purposes of the Union."

Mr. Alladi Krishnaswami Ayyar said that we want to keep it deliberately vague. What is meant by the words "for the purposes of the Union"? I would like to know that. Many of the States in our country are taking part in commercial transactions, like, fishing in the territorial waters. What is the legal and constitutional right of the States to do that? When you have increased the area by bringing in now in article 297 the exclusive economic zone which has not been defined in the Constitution and it is yet to be defined either by international treaties or by any accepted notions of international conduct, what is the objective of this in relation to the States and the Union in so far as those activities are concerned? Is the State precluded from carrying on such activities, like, fishing in the territorial waters and within what is known as the economic zone?

These are not matters relating to land, minerals, etc. specifically? I would like to know what is the objective according to the Government, if at all it has applied its mind. What is meant by the words "for the purposes of the Union". Are the States' rights in respect of "within the territorial waters" going to be affected or not? I want the hon. Minister to make that clear. In principle, we have no objection. We want that the States' rights to increase their potential should not be stifled by operation of article 297 of the Constitution. This is our submission in regard to clause 2.

Coming to clause 3, this is the most objectionable part. It is very objectionable and we do take objection to it. When the Constitution was enacted in 1950, we did not have article 31(B). There were certain challenges made to the Zamindari Abolition Act. When the first amendment was brought in 1951, what was the Statement of Objects and Reasons?

[Shri Somnath Chatterjee] ..
 If I may read from the Statement of
 Objects and Reasons, it says :

"Another article in regard to which unanticipated difficulties have arisen is article 31. The validity of agrarian reform measures passed by the State Legislatures in the last three years has, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject-matter of dilatory litigation, as a result of which the implementation of these important measures, affecting large numbers of people has been held up.

The main objects of this Bill are, accordingly, to amend article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of zamindari abolition laws in general and certain specified State Acts in particular. The opportunity has been taken to propose a few minor amendments to other articles in order to remove difficulties that may arise."

This was the first amendment of the Constitution and it brought in article 31(B) which gave the Constitutional protection from the challenge of vested interest with regard to the agrarian reforms legislation or the laws for the benefit of the common people of this country.

Next, the expansion or increase in the list of Acts in the Ninth Schedule was by the Fourth Amendment Act. It was also made clear in the Statement of Objects and Reasons that, for the purpose of making very clear as to what was meant by the concept of deprivation of property, it was necessary to include some of the Bills in the Ninth Schedule so that they could not be challenged, because there were different types of judgments given by the different courts. There is no objection to that; it is a welcome measure and I have no doubt about it.

Then, in the Seventeenth Amendment Act, which was followed [by the Twenty-

fourth and thirty-fourth Amendment Acts—] if I am not mistaken about the numbers—the Statement of Objects and Reasons says that "it is also proposed to amend the Ninth Schedule by including therein the State enactments relating to land reform in order to remove any uncertainty or doubt that may arise in regard to their validity". I am trying to show that, throughout, this House has proceeded on the basis that the Ninth Schedule is to be utilised for the purpose of giving protection to such laws which deal with agrarian reforms or land reforms and that the object cannot be to give protection to all and sundry legislation, whether they have anything to do with agrarian reforms or not. This was not done until the 39th Amendment Act came to amend the Constitution of India. I would like to know what is the justification for giving protection to such obnoxious pieces of legislation which very much agitated the House. You are now utilising your temporary majority, and trying to use that majority in the House whose mandate has expired, by yourself extending your own term, without taking the views of the people. Without taking the views of the people you are now making changes in the organic law of the country. But don't forget that you are representing a minority of the people of this country. Whether you like it or not, that is the position.

Now, what is the justification for including the Prevention of Publication of Objectionable Matters Act in the Ninth Schedule? Is it for the purpose of agrarian reforms? Is it for land reforms? Is it for giving protection to the tillers of the soil or of the land? Is it for giving protection to those landless people? And how is the Departmentalisation of Union Accounts and Transfer of Personnel Act, 1976 connected with land reforms or agrarian reforms? Is it for the benefit of the common people of this country?

As I was reading the Memorandum which has been filed by Mr. Goldspink under Direction 19B of your Discretions to justify why the usual time is not being given before the introduction of the Bill. They say that the inclusion of the Enactment in the Ninth Schedule of the Constitution is intended to ensure that this important and progressive enactment should have constitutional protection. That is a joke. I cannot think of a greater mis-statement of the object of the present amendment. Except so far as a or 2 items are concerned, we are making it clear that we are not opposing the inclusion of other items as we are trying to give them some benefit of doubt since they at least purport to refer to land reforms or agrarian reforms; but we are opposing this. I have no manner of doubt that the Hon. Minister has not read any of these Bills. Let him say here and now what the Rajasthan Colonisation Act contains: I am sure he does not know! I don't blame him for he reads out prepared speeches, and we know what he will say. But is it not a joke to call these bills progressive enactments which require protection by inclusion in the Ninth Schedule? Was the MISA Amendment a progressive legislation? This is the way your power is being misused and we want to say that we won't be a party to the misuse of your power. Just because you have got this power and a sledge-hammer majority, you think you can bull-doze everything you like: you are not concerned with the people and you are trying to take advantage of your temporary majority. We are opposed to it.

Para 2 of the Statement of Objects and Reasons of the present Bill says that recourse was had in the past to the Ninth Schedule whenever it was found that progressive legislation conceived in the interests of the public was imperilled by litigation. The Statement of Objects and Reasons does not give a true picture. The last para of Clause 4 of the Statement

says that these and other important and special enactments which, it is considered necessary, should have Constitutional protection, are proposed to be included in the Ninth Schedule. What is special about this? Is every law a special law? Now, you want to curb the people's rights, you want to take away personal liberty and give protection to such laws under Art. 31B of the Constitution. I have no manner of doubt that once the Emergency is withdrawn, the MISA Amendment Act cannot stand scrutiny even for a day. But you want that Draconian piece of legislation to continue in the Constitution *ad infinitum* because today you happen to have majority.

Similarly, the Additional Emoluments (Compulsory Deposits) Act was included in the Ninth Schedule. Is it an important piece of legislation, a beneficial and progressive legislation according to you? Every Opposition Party was against that and you know it. Knowing that there is no legal or constitutional or moral base for those legislations, you want to give them Constitutional protection by including them in the Ninth Schedule. This is the attitude of the Government that we are objecting to and we shall protest in whatever way we can. We know that nowadays whatever we say is not even expected to be known to the people. That is why they want this Objectional Matter Act, this Press Law, this infamous, black Act to be given protection under the Ninth Schedule.

So far as the Hon. Minister's statement today is concerned, he said that those legislations which are essential for the welfare of the people or essential legislations should be protected. I would like the Hon. Minister to tell us, outside his prepared speech, how these laws are essential for the welfare of the people, how these are essential pieces of legislation for the purpose of the country's good and for the good of the common people. These Constitutional Amendments have

[Shri Somnath Chatterjee]

to be tested on the anvil of the good of the common people of the country. You choke their voices, stifle their rights and take away the minimum rights they have [and now you say that this is welfare legislation and therefore it should be protected. That is why I said that the Bill would have been passed even without a discussion so far as we are concerned if these three items had not been included in this Bill. If you really want the amending process to be utilised for the purpose of the good of the country, you should have taken the Opposition into confidence. Kindly see items 125, 130 and 133? How can these legislations be treated as welfare legislations? Section 66A of the Motor Vehicles Act purports to deal with some agents and brokers. I don't know whether you are taking the time of the House in trying to protect brokers or in trying to protect principals]

Therefore, I would say, let us not hurry up matters of Constitutional Amendment in this way. Nobody can say that we ever stood in the way of the progress of the country or in the way of any amendment of the Constitution which is for the benefit of the people. We ungrudgingly gave you the power, when the question of amending power of this Parliament came up; we never objected to it but we supported it. As a matter of fact, we have been saying that there are some legislations which require protection and you should have included them in the Ninth Schedule much earlier. But I would like to know which of these three legislations—the items which I have mentioned—are in danger of being struck down by the Judiciary. Is there any litigation pending anywhere? Was there any litigation challenging the MISA amendment?

Why was it brought? There is no justification. I would like to know how many of these laws are being challenged in courts of law. We do not know that. I am saying that I do not know even what

are the contents of these Acts; whether they are for giving rights to the beneficiary or not. That is why Mr. Dinan Bhattacharyya said that we should not do these things in a hurry. Let these Acts be given to us and we will see, because, some of the States may have passed such legislations which may not benefit the people; at least on those, we can make our submissions; the title may mean something, but the contents may be something else. Therefore, why should we do something in ignorance? Does it redound to the credit of this House or to the Members that we have to say that we are giving blanket approval to something that we do not know? We do not know when some of these Acts have been passed by some of these States—1974 or 1975 or 1976; particularly some of the Acts of 1976, we do not know. The statutes passed by the Legislatures are not available to the people; they are not printed; the Gazette comes out months and months later. How are we to know what are the Bills that have been passed? The West Bengal Legislative Assembly is passing Bills galore; there is no opposition, as you know; they do not even come out in the newspapers. Therefore, I do not feel happy and proud.

I have to participate in a debate on a Constitution (Amendment) Bill in ignorance. I do not think any of the hon. Members here can say that he knows all the provisions of all these Acts or at least even the purport of all these legislations and that, even but for the whip, he would have supported this measure. Therefore, what are we trying to do? Are we taking this country forward by passing Constitution (Amendment) Bills in a huff or in a hurry, without proper consideration? In order to get approval for these obnoxious measures and to give them a credibility or appearance of a good company, you have included some so-called land reform measures; I am saying 'so-called' because

I do not know them; otherwise, I would not say that. As I have said, just to give those obnoxious measures a good company, you have included the other land reforms measures. We are opposed to the inclusion of all these three items, particularly items 130 and 133. Item 133 relates to transfer of some personnel from one department to another—from the Accountant General's office to the Ministries. Does that require Constitutional protection? What difficulties it may be creating to these employees, nobody knows. Why don't you trust the judiciary at least for this little thing? If the judiciary gives you approval or gives judgments to your liking, then you gloat over them. Even in the absence of any threat to the validity of these legislations, they are being sought to be included.

A Constitution (Amendment) Bill, in my respectful submission, should not be treated from the point of view of Emergency. This is going to be a permanent law of this country, the very basis of our Constitutional set-up. If you have to give protection to X or Y or Z for your own Party purposes, you can bring in legislations, but you are here tinkering with the Constitution of India, you are making changes in the Constitution of India, by including there some employees' matters and matters relating to the very fundamental concept of freedom of speech. Therefore, we are objecting to the inclusion of these three items, particularly items 130 and 133, and I request you, Mr. Speaker, Sir, to exercise your discretionary power and see that this Constitution (Amendment) Bill is not discussed and passed in the manner in which it is sought to be done. Let proper opportunity be given to the Members. If a case had been made out by the hon. Minister that, if this Bill is not passed today, the implementation of any agrarian legislation will be very seriously prejudiced, then one could have understood,

but no such case is being made out and still they want to push it through this House.

Therefore, on this basis, subject to what I have said, we support, on principle, the inclusion of the agrarian legislation, but we cannot support the inclusion of the three legislations which I have mentioned.

SHRI JAGANNATH RAO (Chattrapur) : Mr. Speaker, Sir, I welcomed this Bill. With the passing of this Bill, which is the Constitution (Forty-Second Amendment) Bill, we would have passed forty-two amendments to the Constitution since 1950. The first amendment, which inserted Articles 31A and 31B and the 9th Schedule of the Constitution was passed in 1951. These amendments highlight the fact that the Constitution cannot be a static document, but it has to be a living instrument to bring about social changes and to fulfil the hopes and aspirations of the people. That is why, these amendments are being brought from time to time. My hon. friend, Shri Somnath Chatterjee, of course, has reasons to contest or oppose the Bill on the ground that certain Acts which are included in the 9th Schedule ought not to have been included. I will come to that later.

Before I come to the merits of the Bill, Shri Somnath Chatterjee said that the life of the Lok Sabha has expired and the mandate by the people had also expired and consequently this House had no right to pass any constitutional amendment. As he knows, the life of the Lok Sabha has already been extended under Article 82 of the Constitution, because the emergency is in force. The life of the hon. Members not only on this side, but on the other side also has been extended. The Parliament has full powers to pass any legislation including a Constitutional amendment. Again, he spoke about the mandate. Though the people

(Shri Jagannath Rao)
 of India have given unto themselves the Constitution, no mandate of the people is necessary to amend the Constitution, because no power is left with the people, the power now vests with the Parliament. The representatives of the people constitute the House and the House has powers under Article 368 of the Constitution to amend the Constitution, whenever it is found necessary. Therefore, the question of mandate does not arise. This House is lawfully and legally constituted under the Constitution and this House has every right to pass any amendment that the Government brings forward.

This Bill consists of two parts. The first part relates to amendment to Article 297 of the Constitution; a new Article is sought to be substituted in place of the old one. Article 297, as it originally stood, did not contain the words 'continental shelf'. The term 'continental shelf' was introduced by the 15th amendment to the Constitution in 1963. Earlier, the President of India had issued a proclamation that the limits of the territorial waters would extend upto six nautical miles. After the 15th amendment was passed and after the inclusion of 'continental shelf' in Article 297, the President of India issued another proclamation in 1965 extending the continental shelf to 100 nautical miles including the right to fisheries. My submission is that both these proclamations are out-of-date. The territorial water limit has now been extended to 12 nautical miles and the limit of the continental shelf is now upto 200 nautical miles. Therefore, both these proclamations have to be brought up-to-date and it is necessary to amend 6 nautical miles to 12 nautical miles in respect of territorial waters and 100 nautical miles to 200 nautical miles in respect of territorial waters and 100 nautical miles to 200 nautical miles in respect of continental shelf. I had expected the Law Minister, who led the Indian Delegation to the United Nations Conference on the Law of the Sea to make a statement

in the House as to what transpired in the Conference, but unfortunately he is not well and he did not make the statement.

Dr. V. A. SEYID MUHAMMAD :
 He named a press statement on his return.

SHRI JAGANNATH RAO : We want a statement in the House

In 1958, the United Nations Conference on the Law of the Sea could not come to an agreement. So also in 1960, no agreement could be reached. In 1976, the United Nations Conference on Law of the Sea was held and some decisions seem to have been taken. I came across a statement of Dr. Henry Kissinger, who said that though the Conference has yet to decide some issues, some issues have been decided. He says that the limit of the territorial water is now 12 nautical miles and that of the economic zone is upto 200 nautical miles. This has been agreed to. Therefore, we are gratified that the Conference is ready to settle the limit of economic zone upto 200 nautical miles.

The right of a sovereign State extends not only to territorial waters, but it extends to the economic zone upto 200 nautical miles.

Then comes the maritime zone also. The entire area the State has the right to explore and exploit, not only the natural and mineral resources but also the deep sea-bed mineral wealth. That right is there and is accepted in international law though for the first time, the concept of the economic zone has come up in the international conference on the Law of the Seas. Therefore, my humble submission is that the President of India should amend the two earlier proclamations made by him, one regarding the territorial waters limit extending it from 6 miles to 12 miles and the other on the continental shelf,

that is the economic zone, extending it to 200 miles instead of 100 nautical miles as per the notifications of 1965.

Dr. Kissinger also indulged in some platitudes for the developing nations. He said a few highly technological, developed States should not have the benefit of the exploitation of the sea-bed resources and that the entire world community should have the benefit. Or that the conference evidently has not come to any decision. Nevertheless, we have a right. We are a sovereign Republic. We have a right to extend our authority and sovereignty not only over our territorial waters and not only over the continental shelf but also over the maritime zone. Therefore, it is highly necessary that we should act unilaterally because other countries have done so. The United Kingdom has passed the Continental Shelf Act of 1964. Why should we not do it? Why should we wait till what the United Nations Conference would decide or not decide? That is my first submission on this issue.

The second submission is about insertion of certain Acts, both Central and of States, in the Ninth Schedule. As I submitted earlier, Articles 31A and 31B and the Ninth Schedule were introduced by the First Amendment in 1951. If you read Art. 31B, it does not really confine itself only to laws relating to land reforms but it refers to laws and regulations made which have the effect of abridging or taking away any rights under Part III. It is true that up to the 17th Amendment, only Acts relating to land reforms were challenged in the courts. But, thereafter, so many legislations have come up, both central and of the States, which have the effect of taking away or abridging the fundamental rights. Everybody who was affected has gone to the courts, challenging the validity of these legislations. Therefore, it is right for the government to anticipate the attack on these legislations on the ground that these Acts have transgressed or violated the fundamental rights and that therefore, they are void. To avoid that situation, it is highly necessary

that the Government should come forward and include some of the Acts. They may be obnoxious. According to Shri Chatterjee. I am not on that point, but they have to be protected by inclusion in the Ninth Schedule.

What is happening to-day? Not only the Agrarian Reforms but even the 20-point economic programme of the Prime Minister is challenged. Most of the 20-points are covered by the Directive Principles. The Directive Principles, though not justiciable, are fundamental in the governance of the country under Art. 37. For the first time, a serious attempt has been made by the Prime Minister to implement those Directive Principles with determination and several Acts have been passed. Only two days ago 800 writ petitions in the Allahabad High Court challenging the validity of the acquisition of land for providing house sites to the landless people have been struck down. 800 persons have gone to the Court challenging the law. Therefore, should the Government wait and see as a silent spectator and only when the Acts are challenged, come forward with an amendment? Should they not anticipate? Any Government worth its name should anticipate this and come forward in time to prevent anybody going to the court.

What are these courts? They are quite funny. With due respect to the learned Judges of the Supreme Court, no decision of theirs agrees with the previous one. Art. 141 says that the law declared by the Supreme Court shall be binding on all courts in the territory of India. But Supreme Court decisions are not the law of the land. They do not bind the Supreme Court itself. It has gone back on its own decisions. In the *Bengal Immunity Company vs. State of Bihar* case they did not accept an earlier decision and they went back on it. The courts are also, I would say, funny. Every judge wants to show off his erudition and tries to propagate

[Shri Jagannath Rao]

his own philosophy.... (Interruptions). Every Judge wants to publicise his own philosophy as against the philosophy of the Constitution. The philosophy of the Constitution is contained in the Preamble and Art. 39B and 39C. That has to be given effect to and not the individual's philosophy. By the language they use they want to show off their learning and erudition.

Therefore, while moving the first amendment and also in the Constituent Assembly Pandit Jawaharlal Nehru said, "It is the right of the Parliament to fix compensation. It is no part of the business of the judiciary to go into this question." Though Art. 31A was amended, the courts went into the question of the adequacy of the compensation.

According to Pandit Jawaharlal Nehru equity is not only to the individual but it is to the community at large as well. It is not one sided or only to the individual who is affected, but also to the community.

On these questions, the courts have been giving their own decisions inconsistent with their earlier decisions. Now the time has come when we should put a stop to it. Though judicial review is necessary in a federal set up it has to be restricted to cases.

The legislature can fix the compensation. On acquisition of a small piece of land, the compensation may be more. But if the acquisition is for a public purpose, it should be less. The principle for the grant of compensation has to be evolved keeping in view all the implications and the conditions in the country. In these circumstances the grant of compensation is not justiciable. But still the courts are going into this question. For how long can we carry on with such a situation? We have to remove these Acts from the pale of judicial review, so that legislation which is sought to improve the welfare of the

people is effective and could be implemented without any interference or obstruction either from the people or from the judiciary. Therefore, this Bill is highly necessary. It cannot wait.

We are also considering about other amendments to the Constitution. But it will take some more time. Some of these enactments may be challenged in the court meanwhile. Therefore, to avoid that situation which is likely to arise, this bill is contemplated by the Government. I am sure the House will give its consent.

SHRI INDRAJIT GUPTA (Alipore) :

Mr. Speaker, this Bill embodies within it two separate and distinct provisions. The first provision is contained in Art. 2 and that is something quite distinct from the provisions of clause 3.

As far as Clause 2 is concerned, I must say, I was very very disappointed with the way in which this Amending Clause 2 was presented here on behalf of the Government by the hon. Minister. After all, this thing has not come out of the blue. There is some protracted background to it. As my friend Shri Jagannath Rao said, the House would have benefited by having at least some resume or some discussion on these issues relating to the territorial waters, to the economic zone, to the continental shelf. The maritime zones are being debated in the Councils of the International Community, and what stand has India been taking there and what is the stage which has been reached now? Discussions have been going on for several years in the United Nations. A special Conference had been called at Caracas. Recently, our Law Minister has been abroad for this very purpose to New York. But we are not informed of anything. This is a very complicated and, I should say, quite a difficult question, in the sense that it is going to assume more and more importance in the days to come.

23.00 hrs

Clause 2 is really an enabling clause in the sense that it gives to Parliament the power to specify or define from time to time the limits of territorial waters, continental shelf, exclusive economic zones and other maritime zones of India. It is very necessary that the lands, minerals and other things of value underlying the ocean shall have to vest in the Union and be held for the purposes of the Union.

But in terms of the geophysical strategy which is being pursued by various countries and nations throughout the world. Now, I think, Government should have explained how exactly we are looking at this question. Many times in Parliament references have been made to the Indian Ocean, to the question of foreign military bases in the Indian Ocean such as Diego Garcia, etc. and to the need for maintaining the Indian Ocean as a zone of peace. I have no doubt in my mind that very shortly in the most important summit conference of non-aligned nations to be held in Colombo this question will again receive a great deal of attention. But now the point is this. It is now commonly understood that the rivalry or competition which is going on between certain powerful nations which have got lot of technological and military resources is at least partly connected with the question of the very rich, actual and potential wealth which is underlying the waters of the ocean or the ocean bed. It is not simply a question of putting up a military base here and there.

I wish to read out very briefly something which was written in an article by a distinguished scientist whom we all know, Dr. B. D. Nagchowdhury who is at present Vice-Chancellor of Jawaharlal Nehru University. He had this to say :

"The growth of science and technology, since the world War II has indicated that the oceans, the territorial waters and the ocean bed

are repositories of valuable resources for a nation. These resources can be used only when a nation has the technology to use it. Increasing sea traffic, dumping of bilge and other substances from ships which become a hazard to marine life, the insistence on the freedom of passage, rather than innocent passage, the development of long-range submarines and intercontinental ballistic missiles which can be launched from submarines, which travel the seas-unperceived have created an entirely different strategic situation which makes it difficult to think in terms of the old concepts of the oceans a free and open area equally accessible to all.... The nations of the world which are as yet not sufficiently advanced to develop an interest in the marine resources, and the technology to exploit it which now seems to be more accessible than a quarter of a century ago, are concerned that while they do not have the military power, their security and future material interests can be very easily jeopardised by the actions of the militarily and technologically strong powers over whom they would have very little influence. There seems to be no other course for the developing nations, as well as the non-militarily developed nations than to come together in this area of ocean law and act together on specific areas of the ocean to safeguard their current and long-term interests. This is the basis on which we, of the Indian Ocean area, can get together to enunciate, jointly with other coastal states, a policy that the Indian ocean resources should be exploited largely for the benefit of the littoral states, and that it is in the interest of the coastal states to keep

(Shri Indrajit Gupta)

the Indian ocean area free from possible conflicts of the super powers."

So, in this background, we have to consider this question of military bases and the danger also of growing military presence or naval presence in the ocean, particularly, the Indian ocean, of powers which are more advanced in the military and technological sense than we are or any of our neighbours.

Sir, another distinguished Academician, Prof. A. K. Ray, also of the Jawaharlal Nehru University, has written, I quote :

"There is another aspect of the imperialist interest in the Indian Ocean to which sufficient attention has not been focussed in this part of the world. This refers to the exploitation of the sea as a source of food and the sea-bed and its sub-soil of oil and minerals. Unfortunately in all these spheres, as in the sphere of armaments, technology is in favour of the Western powers, which may partially explain why the world's oceans and seas as new sources of neo-colonialist exploitation have not attracted the attention they deserve. While popular attention, understandably, has been directed towards the security implications of the imperialist naval presence in the Indian Ocean, countries like France, United States, West Germany and Japan are perfecting the technology of off-shore drilling for oil and minerals; the sea as a possible source of energy is also being explored. The Americans and the Australians have already developed Sonar-based fish-herding devices by means of which fishes and other sea-food could be lured from the high seas of other coastal areas

to particular areas for catching. For all such avenues of neo-colonialist exploitation, the Indian Ocean provides a happy hunting ground, without any fear of competition from the littoral countries due to the non-availability of the new technology in the overwhelming majority of these countries."

I do not wish to take up more time with these quotations. The point I am trying to make out is this. Here, this new Clause (2) is certainly very very necessary—essential—it does not state anything which is very very radical or revolutionary. It states that the question is quite clearly one of national sovereignty and national right and invests Parliament with the powers to specify and define the limits of all the relevant territorial and other waters over which we should have sovereign rights. So, I do not think there is any scope for any dispute or controversy over clause (2). But, I do wish that the Government would have given us rather a broader picture on how these issues are being discussed and debated and what is the way in which are looking at it present.

12.03 hrs.

[SHRI VASANT SATHE in the Chair]

Then, Sir, as far as Clause 3 is concerned, I must also state my unhappiness at the fact that this is a clause which ostensibly seeks to do a very good thing which we would wholeheartedly support. That is the inclusion in the Ninth Schedule of all those Central and State Acts which refer to land legislations and land reform measures. I must also put in my caution—I do not know what is contained in these legislations, but I am told, for example, by some friends, that of all these acts which have been passed in Tamil Nadu—items Nos. 166 to 178 about 13 of them—some of them are quite defective as pieces of legislation; these

would require a more detailed examination to see whether there are some defects in the body of these laws which perhaps, require to be amended because they are given the constitutional protection. But, I am not in a position myself to say that because, I would say honestly that I have not been able to study all those laws; I do not know if the Government has done that; they have not stated anything; they do not tell us even whether they are thoroughly satisfied that all these State legislations are of a progressive character in the sense that they do provide the sort of land ceiling measures about which we have been agitating all along and the provisions for a proper land reform, and land distribution.

Anyhow, we have no go in the matter but to take the Government's professions at their face value. What I was saying was that it does appear most incongruous—to put it mildly—that within this large package of land legislation measures the Government has thought it necessary to smuggle in these two or three Central Acts which have got nothing to do with the purpose as stated in the statement of Objects and Reasons. The statement of Objects and Reasons go on referring to progressive legislation, progressive and beneficial pieces of legislation intended to end the monopoly of vested interests and says that unless they are given protection the purpose of enacting these laws would be frustrated and the national economy may be severely affected.

I have nothing to quarrel with this statement of Objects and Reasons. It is good. But what impression does it give before one studies the list. Anybody reading the statement must say that it must be referring to laws which are of progressive economic character meant to end the monopoly of vested interests like landlords and contractors and so on, which are progressive and beneficial pieces of legislation and which by not being protected may

create a situation where the national economy may be severely affected. Very good! As Mr. Chatterjee also argued, what have these 130 or 133 enactments to do with this? There is this Prevention of Publication of Objectionable Matter. Mr. Jagannath Rao said it must be given protection otherwise a spate of writs will be issued by the courts. But the point is, don't give this kind of statement in the statement of Objects and Reasons. Mr. Jagannath Rao conceded that there must be obnoxious laws here also.

SHRI JAGANNATH RAO : Mr. Chatterjee said that.

SHRI INDRAJIT GUPTA : Is it a welfare legislation? Is it progressive legislation meant to end monopoly and concentration of economic power? Is it! I don't think we need argue about this Prevention of Publication of Objectionable Matters which we opposed here because the administration of that Act is given entirely in the hands of bureaucrats and magistrates to go on deciding whether anything written by any newspaper or a leaflet or poster published by any trade-union comes within the mischief of objectionable matter or not and then most drastic penalties are laid down. The whole of the press could be seized. Action can be taken against the editor and the publisher. It is already being done.

I know of agitation on the bonus question. A number of trade unions have been served with notices because they issued some leaflets saying that they would go on hunger-strike on this issue. That is called objectionable matter. The press manager and the owner of the press have been served with notices as to show-cause why the press should not be seized. I can tell you of our own Party paper in West Bengal which was served with a notice as to show-cause why the press should not be seized because the Paper had printed one item of news on a parti-

[Shri Indrajit Gupta]

cular day. As it happened by bringing that case upto the higher quarters immediately it was decided that the notice is unjustified and should be withdrawn. Otherwise it would have gone ahead. Even in such cases you want to give this constitutional protection as though there is no ground for abuse and misuse by the bureaucracy.

It is in such matters that every kind of abuse and misuse is likely to be practised. Particularly I say in the case of trade unions and other popular mass organisations which may be legitimately wanting to agitate on some grievance or other, why should you lump that thing together with these land reforms welfare measures? We are not able to understand this. And therefore we will be moving amendments to this, of course, that this should be deleted from this. It gives a bad taste to the whole thing, I should say. It is no use laughing, Mr. Seyid Muhammad. It is bad. You must understand how the people look at these things. Some are progressive things, some are regressive things. You lump them together and you say everything must be given Constitutional protection.

Now, as far as the question of land reform is concerned, I, of course, do not know the way things are going. How far this constitutional protection, that is being given to all these land legislations, is going to serve the purpose, limited purpose, that is, preventing writs being issued in a large number of Courts will be served? Then also, I want to know when will this come into force? Is it to come into force from the date the President gives his assent to it, that is to say, to have a prospective effect? Then I would like to know from the Minister, when he replies on this point, is this Bill meant to have the effect or not have the effect of rendering infructuous the pending suits, pending writs, injunctions, etc. in terms of these legislations in various High Courts or Supreme Court? There is

nothing here to say when this is going to come into force. When we have amended the Constitution earlier and the Election Laws earlier also, we have put in a specific provision that any pending suits or injunctions in respect of the particular elections of particular persons pending in any Court will be rendered infructuous, the moment this Bill is passed. Why is it not being done in this case? Thousands and lakhs, I should say, of injunctions are pending, writs have been issued. What is going to happen to them? If you are going to make a legislation like this, the least that can be done is to put in a clause saying that it will have retrospective effect and the effect will be that all pending writs and injunctions will be rendered infructuous. Otherwise, it has no meaning at all in the context of the Chief Ministers' Conference held in Delhi where you have declared to the whole world that by 30th June you are going to complete this whole process of land reforms. How is it to be done, I want to know. Sir, on the 9th of March, this year, a Statement was laid on the Table of the House by Shri Jagjivan Ram in reply to a question which gave very clearly, I think, the picture of what was actually the state of affairs and how this intrusion or intervention of the Courts was holding up progress. He says: "Judicial intervention, particularly in exercise of the writ jurisdiction of the High Courts, has led to the grant of interim injunction against the implementation of the ceiling law in many cases." The number of pending cases as on 31st January '76 according to Shri Jagjivan Ram was 6,09,482—pending. Now, I want to know one thing. What is going to be the effect of this Bill, on these six lakh and odd pending cases? Will they be rendered infructuous and will this constitutional protection apply to them? If not, how do you propose to solve this problem within 30th June 1976, which is declared to the whole world? And you will also see the result of this in the same Statement in which the Hon'ble Minister for Food and Agri-

culture has said that the area which was declared surplus was 9,32,038 acres. The area actually taken possession of—because the rest of it has been held up by intervention of the Courts—was less than half, that is, 4,08,680 acres. Even there the story does not end. He says, out of these 4,08,680 acres taken possession of, Government has actually been able to distribute up to January only 1,20,045 acres. In his statement the reasons are given, which are mainly two. The first major reason is judicial intervention, which I suppose we want to remove by giving them this constitutional protection. Therefore, it should have retrospective effect and render infructuous all these 6 lakh pending cases. The second reason given is as follows—that is why I said, I do not know whether this amendment by itself will suffice—I quote from his statement:

"In some States, the prescribed procedure is too cumbersome and time-consuming to permit speedy implementation. Failure to strengthen the administrative machinery is also one of the factors that explain why implementation has not been faster. Another important factor of delay is the lack of proper record of rights."

All of us in this House without exception feel that this is probably the most urgent task facing our country and top priority should be given to implementation and carrying out of the land reform measures. You cannot do it by June 30. We do not mind, you can take another two or three months. For some populist reason you announced a date which you know you cannot stick to. I do not understand why this sort of cheap tactics are indulged in. Your own Minister says that 6 lakhs of cases are pending and out of the 9 lakh acres of land declared surplus not more than 4 lakhs have actually been taken possession of and the rest are held up in courts.

Even out of those 4 lakh acres, only 1.20 lakh acres have been actually distributed due to the administrative machinery being too cumbersome or too weak on whatever it is according to him, to carry it out. How will you achieve this target.

On the top of that—I do not know whether he can throw any light on this—a news report appeared the other day that the Centre is contemplating some new Bill to regularise the benami transfers of land that have taken place. We do not know the details of what is contained in the Bill. We have not seen any Bill in a visible shape and we do not know the provisions neither has this news item been contradicted. This news report has been given prominence in the national press that it has been decided to legalise or regularise the benami transfers of land. What the news report has said as an argument in favour of it is that most of these benami transfers have been in favour of poor peasants or landless peasants to whom these benami transfers have been made as a method of evasion only and therefore, if they are regularised, the beneficiaries will actually be the poor peasants or landless people. I think this is a very dangerous kind of argument. I do not know if this is really the line on which the government is thinking. In some cases there may be some landlords who in a great hurry to carry out some sort of evasion at short notice may have followed it, but everybody knows very well in this House that benami transfers have also been made not to the poor landless people but to so many relatives, friends and even non-existent persons. Even the names of domestic animals have been used to show that they are the owners of the land! The National Commission on Agriculture, whose distinguished Chairman is sitting here, has produced a very valuable report running into 15 bulky volumes and it has come out in a very emphatic and categorical manner against any kind of regularisation of benami transfers. I do not know what is the thinking in the government circles, whether they are really think-

[Shri Indrajit Gupta]

ing of coming out with any such Bill. We should be told about it because it runs completely counter to everything that we are proposing to do here. I do not know how much land has been concealed by benami transfers. Everybody's demand is that that land should be caught hold of and benami transactions should not be permitted to stand.

That could be the only reason for bringing this Bill to give constitutional protection to these legislations. Therefore, the Government owes an explanation to us. I think, nobody has read all these Bills. Mr. Chatterjee has said that even the Minister would not have read all these Enactments. But I am quite sure that there is not a single Member who has read all the provisions of these Acts and so, for that matter, we have to give the benefit of doubt to the Government. Please tell us when this is going to take effect. Whether it is going to impinge upon the pending suits and injunctions or not? If the pending cases are rendered infructuous, I would consider it to be a step forward. If it evades that question and is going to have only prospective effect, then it is going to be largely worthless.

Generally, we are in favour of such a provision being made as effective and as water-tight as possible. And if any of these State Acts are reported to be defective in their detailed provisions, it is worth having a second look at them. I share the view that there should not be so much of hurry that you collect the names of all the legislations from all the States, lump together in a package and say, let us give constitutional protection to them. They must be studied carefully. I know there are people better informed than I am on this. If they have studied any particular State Act which is considered to be defective and has dangerous loopholes, I would humbly submit, that for the time being, let them have a second look at it and if neces-

sary, some amendments can be brought over here and we will fully support it.

With these remarks, we generally support the Bill. But we cannot support the inclusion of this provision of Publication of Objectionable Matter Act or for that matter, of course, Mr. Chatterjee has referred to 133, i.e. Departmentalisation of Union Accounts. I was also thinking that this is a very incongruous thing to bring in here. May be the Government's argument will be that in order to carry out the re-organisation which they visualise in that Bill, they want to give protection so that re-organisation is not held up by the people going to courts and getting writs. Possibly, that is the only thing, but certainly, that does not fit very well with this scheme of things. As far as this Prevention of Publication of Objectionable Matter Act is concerned, we hold to our opinion that it is definitely a retrogressive piece of legislation which has no justification, whatsoever. And when we discussed it here, we had criticised it very mercilessly and voted against it. It is open to gross misuse and abuse by the bureaucracy and there is no reason whatsoever why it should be given constitutional protection. Why should you not give to the people at least that much of scope that in case of *mala fide* use of the powers under that Act, they can seek the protection of the court? Nothing very much has happened until now except a few cases here and there. I do not know what Government should be so afraid of. So, we shall press for omission of that particular Act from this list. And about the other points which I have raised. I hope, the Minister will take them into account and will not avoid answering them.

We are discussing a constitutional amendment. I am sorry, the Law Minister is not here due to ill health. The Prime Minister does not bother to be here when the Constitution is being amended. I do not understand this thing at all. But be that as it may, the responsibility devolves on Mr. Syid Mohammad. I request him

to please give satisfaction to Members on both sides and give specific answers on the points and questions which we are raising for clarification, for elucidation and he should assure the House that this is really going to be a useful and effective piece of legislation.

SHRI C. M. STEPHEN (Muvattupuzha): Mr. Chairman, Sir, I rise to support this bill. But to say that, is not to say that I approve of the method in which the Bill has been brought before this House and by which the approval of the House has been sought for.

Before I make my comments about it, I would briefly advert to the arguments of Mr. Somnath Chatterjee. He said that the term of this House has expired, that the Government is representing a minority and, therefore, we have no right to amend the Constitution by this bill, or presumably by any other bill. (Interruptions). He has taken objection to three items in the Schedule.

SHRI SOMNATH CHATTERJEE : I said that by taking advantage of this position, the government is including all those obnoxious bills in the Ninth Schedule, which it should not do.

SHRI C. M. STEPHEN: The question is whether the House is competent or not, i.e. morally competent. To that question, I have nothing else to say except that the House is competent; it is beyond doubt. At least on a large number of bills which are sought to be put into the Ninth Schedule, he will not, I suppose, have any objection. (Interruptions). All I am praying for is that let the argument be limited to it. Let it not be linked up with the competence of the House or the time-limit. All these will mean clouding the issues. He need not have referred to them. With respect to certain observations of my friends in the Opposition, I am more or less in agreement. I cannot compromise my conscience about the method by which the bill has

been brought before this House. We should realize that this is a very important piece of legislation putting a large number of bills or Acts beyond judicial scrutiny—by having recourse to the Ninth Schedule.

With respect to clause 2 of the bill, I entirely agree with Mr. Jagannath Rao and Mr. Indrajit Gupta in their criticism that the Government did not play fair by this House in this respect, that they did not spell out before the House, in great detail, all the aspects regarding the territorial waters, the economic zone, the developments that have taken in the course of international confabulations, the arrangements we have come to, and how is it that a constitutional sanction for the agreements is called for. I can very emphatically say that the House must be taken more seriously. It should not be the assumption, that anything which is brought in here, will just be passed.

Let us remember that this is a sovereign House and that this is a House vested with sovereignty as far as this country is concerned. Therefore, when any important piece of legislation is brought before it, it is incumbent upon the government and it behoves the dignity of the House that all preliminaries are gone through.

Therefore, this is a very serious omission as was pointed out by Mr. Jagannath Rao and Mr. Indrajit Gupta, namely that the government did not spell out whatever things have happened at the international conference or forum, what are the things to which we have agreed, under what provisions this amendment has become necessary, why the notification that the government is now making is not sufficient, and why the parliament must be moved. They should have given all these details. I am sorry that there is nothing stated before the House now to back up this particular piece of legislation.

[Shri C. M. Stephen]

Secondly about the large number of bills. I entirely agree that this is not the way that the Ninth Schedule should be resorted to. The first amendment of the Constitution whereunder the Ninth Schedule was invented, was for a particular purpose.

The purpose was to carry on the revolutionary changes that we were contemplating and then it was absolutely necessary. They mostly concern land reforms. There could be no objection from anybody with respect to that.

Now, under the cover of Article 31(d) if all sorts of legislations are going to be brought in, then we feel concerned that we are over stepping the limit which was thought should be served by the enactment of Article 31 (d) and if a departure is necessary, now if this is to be brought, then a case must be built to the hilt, to the satisfaction of this House.

We have got a Statement of Objects and Reasons. In Paragraph 3, they have made a reference about land legislation. In paragraph 4, they have made a reference about three or four legislations. Then comes this wonderful paragraph—"These and other important and special enactments which it is considered necessary I would like to know which are they? And why is constitutional protection proposed to be given by them by including them in the Ninth Schedule? Either you do not mention any Act at all or you should classify or justify why these Acts must be put in the Ninth Schedule? You have stated land legislations and various other legislations. You have mentioned about other Acts. But what about those Acts which should come here and which are those Acts that are holding up the social revolution taking place in this country? Why exactly this sort of statement is made, I would like to know I want to know whether the officers who have prepared this, are paid for preparing this in such a perfunctory manner and putting it before this House? They should take this House more seriously

and they should spell out why exactly particular legislation are necessary? Otherwise, we will not be doing justice to the country.

Let us remember that this House is now asked to put its stamp of approval on certain number of Acts which this House did not have the opportunity to see, to scrutinise for the purpose of putting them beyond the purview of judicial scrutiny. This is a very serious act and we will be prepared to approve it but you have got to do justice to this House by saying why these acts are, what these acts are and why it is necessary being put in the Ninth Schedule? A detailed Statement is absolutely necessary. I am saying this because I feel that the democracy and the safety of democracy demands that the Officers and the Government take this House as a sovereign body which has got to be treated with the utmost dignity and seriousness. To that extent, I do agree with the criticism that has been levelled. In fairness to the criticism levelled, nothing would have been lost if you had circulated these Bills amongst us or at least you had given us a summary of those Acts so that on the basis of that one could go to our library and pick up those Acts to find out whether there are any defects in them. Before we decide that the Acts are such as to deserve constitutional protection against judicial scrutiny, we would have an opportunity to study them.

Now we are under the Conditions of an emergency. Articles 14, 29, 20 and 21 are under suspension. To that extent, these Acts are beyond judicial scrutiny even today, as far as my understanding goes.

Therefore, there is no big urgency about it; why exactly this has become urgent, the Minister will have to explain to this House? Articles 14, 19 and possibly 20 are the articles to which these pieces of legislations could be tagged. There are under suspension. Now, the emergency is continuing. We are thinking of fundamental

constitutional changes and a national debate is going on. Therefore, these are perfectly on the card and a comprehensive Constitutional Amendment Bill will be forthcoming. That is the whole purpose of the national debate which is going on. Why should not we wait till then? why exactly this great urgency? I am not opposing the move of the Government, but I want an explanation for it. I want the Government to explain why they could not spell out to the House the circumstances under which Clause 1 became necessary, and what exactly the arrangement that has been reached on the international plane as a result of the recent conference on the rights of sea and sea waters is (2) Why exactly this statement of objects and reasons is not spelling out the different clauses of the acts? Why has the Parliament been kept in complete ignorance as to what exactly is happening about this Bill? Why is it that you could not give us a resume of the different acts which are now sought to be given constitutional protection? Why exactly has the Government in spite of the fact that Articles 14, 19, 21, and 22 are suspended—deemed it absolutely necessary to do so? Why could we not wait until the Constitutional Amendments with far-reaching consequences could come before this House about which a national debate is going on currently? why must this House pass this Bill so precipitately?

On these four things I do want an explanation from the Government.

Having said that and having gone through the different Acts, apparently, it appears, most of them relate to land reforms

SHRI SOMNATH CHATTERJEE : What about the Press Act?

SHRI C. M. STEPHEN : I do approve the move of the Government to include that Act, here. Why exactly the Press Act became necessary? Because of the misuse of liberty that was given under that. If that

Act was necessary, then any attempt to tamper with that Act has got to be protected. The question is, whether that Act was necessary. Mr. Chatterjee, there you and I completely differ. we feel that the Act was absolutely necessary. If it was absolutely necessary, then to tamper with that Act has got to be protected so that democracy can be protected against the mischief by persons like him. Therefore, it is absolutely necessary to include that Act here. I would submit that this is the most important thing because, without this, democracy cannot be protected and democracy has got to be protected.

I am not against the Bill as such. I am only saying about the method and the manner in which the House has been asked to approve of this Bill. But looking through the different Acts, it appears, most of them relate to land reforms.

I know about the Forest Act in my State. It is a revolutionary measure. Nobody can dispute that. we have taken over the forests without paying a single pie. It is before the Supreme Court. Then, there is the Cashew Factory Take-over Act. The writs are still pending in the court. The workers are being sent out. The Government do not have the power to take over that although they have got the money and willingness to take over that. So, the protection to that Act is very necessary. A large number of Acts relate to land reforms which must take place in a very speedy way.

Let it not be said to us by anybody hereafter that because the court is coming in the way, the land reforms are not taking place. It is for the purpose of clinching the issue let us give protection to these Acts so that the land reforms may completely take place. This is all I have got to say.

About the Press Act, as I have said, this is the most important Bill which must get priority No. 1 in the long list that has been given here.

[Shri C. M. Stephen]

With these words, I strongly support the Bill. I repeat my request to the Government that I made earlier and say that the House must be taken more seriously.

SHRI SOMNATH CHATTERJEE :

Can he criticise and support the Bill at the same time ?

SHRI C. M. STEPHEN : I have asked for their explanation only.

MR. CHAIRMAN : That is a constructive criticism.

SHRI SATYENDRA NARAYAN SINHA (Aurangabad) : Mr. Chairman, Sir, I must say that it was very refreshing to hear Mr. Stephen. I felt very happy to find that conscience continues to be alive and active, coming as it does from Mr. Stephen who is not only an important Member of that party but also the Deputy Leader of the party. He has very strongly supported the objections raised by Mr. Dinen Bhattacharyya. It is all the more incumbent on the Government now to place cogent reasons before the House, showing the urgency lying behind the move to rush through this measure.

He has also asked the Government to explain or to take the House into confidence as to what transpired at the Law of the Sea Conference at New York. The Law Minister, Mr. Gokhale, had led our delegation there. On his return, he spoke to the press about the consensus arrived at the conference.

In fact, constitutional Propriety requires that he should have made a statement here in the House instead of taking the press into confidence when the House was in session. And even when this Bill has been moved today, the Law Minister has not taken the House into confidence. He should have told us on what issues a consensus has been reached and what are the points still to be thrashed out. From the newspaper reports, we find that a kind of consensus has

been reached with regard to the territorial limits, the exclusive economic zone and the continental shelf. But there are still some points at issue and we saw from the paper that India had clashed with the super-powers. The Law Minister has not spelt out which are the super-powers which are still insisting on their access to the economic zone as they used to have so far, and which are opposed to our proposal for according the Archipelago status to the Andaman and Nicobar Islands, what are their reasons, how it is going to affect their interest and what is the attitude of the United States Government to the Setting up of an International Sea-bed Authority and why the United States or, for that matter, any other super-power, is not prepared to completely abandon its right to explore or exploit the sea and ocean-bed in favour of the proposed International Sea-bed Authority ?

All these points should have been placed before the House to enable us to form our views.

Then, I would like to know why it is that the Law Minister has not yet, in this measure itself, given out the specific territorial limits of 12 miles that has been agreed to as also for the economic zone and for the continental shelf which have been set at 200 miles. The United States Government or, for that matter, the Mexico Government have already gone ahead with their legislation and there is nothing now left to be discussed. So, if you had prescribed the limits in this Act itself, I don't think it will be construed as being tantamount to preempting the decisions or deliberations at the Conference which is to meet again on the 2nd of August at Geneva. Therefore, our submission to the Law Minister is that he should tell us something about it-- whether a separate Act is to be brought before the House and then, if separate Act is to be brought before the House and the House is to adjourn today, where is the urgency for the measure at all, which is only an enabling measure ? There is not going to be any challenge because all that we have done

is to introduce one more concept exclusive economic zone. That is all we have said and there is no reason for rushing through the measure. This should be clearly and cogently made out by the Law Minister.

So far as the Bill itself is concerned, I support it except on one count. I presume that the Government have scrutinised the Acts which are being included in the Ninth Schedule because most of these measures must have come to the Central Ministry for scrutiny before the President accorded his assent. But I have not been able to understand the reason for the inclusion of the Press Law, that is item 130, along with other measures. You are aware that practically the entire opposition was opposed to this measure. We pleaded here in this House that the press should be dealt with as an ordinary citizen. They are prepared to be governed by the common law; they don't want any special status. But, in the teeth of opposition, you got this Bill passed and now you have come forward to give that measure constitutional protection, which, means that this is going to be a permanent feature.

My friend Shri Stephen has talked of democracy and has, on the other hand, supported this measure being included. He said that certain curbs are necessary. A Government spokesman said the other day, while moving the measure, that the Press in India, by and large, had been responsible and had acted with restraint. As has been stated to us, certain curbs on the Press have been removed and certain guidelines have been issued. You know what is happening: the Press is cooperating with you by not publishing a single line which may be unfavourable to Government or distasteful to Government. What better cooperation do you expect from them? By including this measure in the Ninth Schedule, do you want to make it a permanent feature of the democratic polity and then say that we have all the democratic values well preserved

here? Is this the way you want to run this Government? It makes me feel that you don't want this Press Law to be amended or abrogated. Supposing that tomorrow you hold an election—for which there doesn't seem to be any chance any way. At least, to us it does not look like it because, yesterday, you postponed the Scheduled Castes and Tribes Bill, you will take some time to revise it and thereafter you will come before the House. Then census will be again taken and population figures prepared, which will take another year and the Election Commission will delimit the Constituencies afresh and it will give you another lease of life, and in this extended and borrowed time you want to push through all these measures. Not only that; you want to frighten the Press to the extent of making it so compliant that they will serve neither the interests of the opposition parties nor the interest of democratic polity. The net result would be that supposing the opposition comes to power but has failed to secure two-thirds majority and they are committed to making the Press free, they cannot amend this because it requires two-thirds majority to amend the Press Act, they will have to wait indefinitely and the Press will remain under subjection. That is the position and I must say that we find it very difficult to accept the proposition. Therefore while I welcome and support the Bill in general, I do plead with the Government to at least agree to delete 130 and 133. I don't see that the Motor Vehicles Act is something of the kind which should be protected. I don't know how it is considered to be a progressive measure.

We don't want anything to be done which will impede or delay the implementation of your economic programme. You want to bring about a new change.

You want to bring about a new socio-economic structure. You carry on with your revolution, but do not take advantage of this and place measures like the Motor Vehicles Act.

SHRI DINEN BHATTACHARYA:
What about Rajasthan Colonisation Act?

SHRI SATYENDRA NARAYAN SINHA: I have not studied it. I only presume that the Law Minister has read all these and satisfied himself that these are progressive measures, these are the economic measures which will help to bring about the intended socio-economic change.

Therefore, I am lending support to this, but certainly not to the inclusion of those measures which, as my hon. friend said, do not make any sense to us. With these words, I generally support the measure, but I oppose the inclusion of the three Acts which I have mentioned.

SHRI DINESH CHANDRA GOSWAMI (Gauhati): I take my stand here to support this Bill, and I shall start with the last point raised by my learned friend, Mr. Satyendra Narayan Sinha. He expressed an apprehension that, by the inclusion of the Prevention of Publication of objectionable Matter Act, 1976 in the Ninth Schedule, the effect will be that, if they come to power tomorrow and are short of two-thirds majority and if they desire to change the Press Act, they will not be able to do so because the two-thirds majority, required for a Constitutional Amendment, will not be there.

Of course, the first question is whether they will come to power at all, but even assuming that they come to power, their being short of two-thirds majority, I may assure my learned friend, will not stand in their way because, by the inclusion of this Act in the Ninth Schedule, the effect is that one cannot challenge it in a court of law on the ground that it violates any of the Fundamental Rights, but it does not take away the power of the Parliament to amend this Act or to repeal it. Article 31B is very clearly worded. Article 31B says in very clear terms:

"Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgement, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force."

Therefore, even if my friend comes to power some day, I may assure him that he will have the power, even without the two-thirds majority, to amend this Act or even to repeal it, merely placing it in the Ninth Schedule will not stand in the way. But, of course, the question remains whether they will ever be able to come to power at all.

As has been pointed out, there are two provisions in this Bill: one deals with article 297 of the Constitution and the other seeks to include certain Acts in the Ninth Schedule. By and large, this Bill has received support from all sections of the House, including my friend, Mr. Somnath Chatterjee, whose objection seems to be limited only to the inclusion of three Acts—out of the 64 Acts which are sought to be included in the Ninth Schedule. Mr. Indrajit Gupta has also given his limited support to this Bill.

So far as article 297 is concerned, by this Amendment, for the first time, this concept of exclusive economic zone is being brought in the Constitution itself. This concept is not a new concept: it has been in vogue in the international world and has been discussed. In fact,

for years to come, the international community have been trying to come to some agreed conclusion regarding the law of the Sea, though we have got a doubt because of international pressures and pulls, whether even in the remote future, some sort of an agreement will be arrived at—because there is conflict of economic interests. But simply because the international community has not been able to come to a consensus, it should not take away our right, or should not prevent us from asserting our own right regarding our territorial limits till now, under article 297, the Constitutional provision was limited only to Continental shelf or territorial waters, but the exclusive economic zone, undoubtedly, deals with a much larger territory. In view of that, we welcome this Amendment. We also welcome the provisions that have been made....

MR. CHAIRMAN : The hon. Member will continue after Lunch. The House stands adjourned till 2:00 p.m.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at Four Minutes past Fourteen of the Clock.

[MR. DEPUTY SPEAKER in the Chair]

CONSTITUTION (FORTY-SECOND AMENDMENT) BILL—contd.

MR. DEPUTY -SPEAKER : Mr. D. C. Goswami.

SHRI DINESH CHANDRA GOSWAMI (Gauhati) : I was submitting before lunch that this Bill contains two types of provisions. Clause 2 deals with Article 297. Clause 3 brings certain Central and State Acts, 64 in number, within the purview of the Ninth Schedule and takes them out of judicial review.

So far as Article 297 amendment is concerned, up till now the two concepts which were recognised by the Constitution were the territorial waters and the

continental shelf concepts. Now, for the first time, in the Constitution we have decided also to introduce the concept of the exclusive economic zone. The concept of exclusive economic zone is not an absolutely new concept and I think this concept was being discussed and is being discussed in the international community and it is right and proper that this concept should find a place also in our Constitution, because the fact remains that the economic development of the country, in the near future, to a great extent, has to be dependent upon the exploitation of the wealth that is lying under the sea and one ostensible manifestation has been the very heartening result that we have obtained from the Bombay High. Of course, merely by introducing something in the Constitution, this concept will not help us unless we can develop our technology for exploiting the resources of the mineral waters. That is one aspect with which the Minister of Law is not concerned and, therefore, I will not deal with it.

It is also true that this debate ought to have given us an opportunity of having a fullfledged discussion on the law of the sea that is taking pace in the international world. But obviously, with the enabling power that the Government has taken under Clause 2, the Government in the near future shall have to come forward with certain laws under Clause 3 to declare the limits of the territorial waters, the continental shelf and the exclusive economic zone. I hope when this law is brought before this House, the Government will spell out in detail and depth its stand regarding the various aspects of the law of sea and also will afford an opportunity to this House to express its viewpoint on the matter.

Clause 3 deals with the Ninth Schedule. 64 Bills have been incorporated in the Ninth Schedule and they have been taken out of the purview of the judicial review. As my friend Shri Somnath

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Chatterjee has said, the objection is on the three Bills—125, 130 & 133. Nobody can object in this House and even the opposition has not objected by saying that the Bills which are dealing with the land reform legislation and progressive legislation should not be taken out of the judicial purview. It is true that in this Ninth Schedule and in this Constitutional amendment, we have brought also certain Bills which are not in the true sense of the term what one can call agrarian bills. It is also true that the statement of objects and Reasons of the first amendment relating to the Ninth Schedule dealt mainly with the agrarian reforms. But one should not overlook the fact that between the time that amendment was made and the time when we are discussing this Fortieth Amendment Bill, much water has flowed in the River Ganges. At that time agrarian reform was the main theme which really occupied the attention of the House. But everywhere we have found that for the proper implementation of the progressive legislation, not only should one deal with the agrarian laws, but also with other legislations. It has become necessary, because of the various judicial pronouncements and also because of changes in our own thinking. The basic concepts have changed and, therefore, it is no wonder that in the Ninth Schedule to-day not only agrarian reform bills have been included but also other bills have been included. For example, I find that under the Ninth Schedule, the Essential Commodities Act. Nobody can deny when artificial scarcity of essential commodities is created or the prices of such articles are raised, an Act like the Essential Commodities Act should be taken out of judicial purview. There are Bills which deal with smugglers, foreign exchange manipulators and bonded labour system. Some of these Bills and Acts deal with the 20-point economic programme enunciated by the Prime Minister. To-day nobody can deny that unless these problems dealing with the vast multitudes of

the country, who are below the poverty line, are dealt with in a very efficacious manner, in a very short span of time, obviously, the democratic system, however one may swear by it, or the Constitution will not stand the test of time. Therefore, these laws which have been brought in order to give effect to the 20-point programme of the Prime Minister should be taken out of the purview of judicial scrutiny and in that view of the matter, I support other laws regarding the bonded labour system or doing away with the private manipulators and so on and so forth.

My friend Mr. Indrajit Gupta raised the point as to what will be the time from which the provision of this Bill will take legal effect. The moment this Forty-second Amendment Bill comes into operation, from that very day, the Act will protect pending cases also. Even if cases are pending in courts, the moment this amendment bill becomes a law, in respect of those cases pending in the courts, the courts will lose their powers of scrutiny and the validity of the laws will be beyond challenge. And therefore, there need not be any apprehension in the mind of my hon. friend Shri Indrajit Gupta on this count.

My friend, Mr. Stephen made another point. He said, emergency is on now and fundamental rights are suspended and as such, he asked, what is the necessity of bringing this Bill at this time by which we take certain Bills outside the purview of judicial scrutiny. So long as fundamental rights are suspended, the courts cannot look into them and so, why should we go in for their inclusion in the Ninth Schedule? This is what he asked. But there is another aspect of the matter and it is this. I have seen this for myself in Gauhati High Court. Certain Acts are challenged during the time of emergency. The Court says that because emergency is in operation and fundamental rights are suspended they are not

going to examine these cases and they will wait till emergency is lifted. I do not know whether this is the experience of the Gauhati High Court only or whether this is being done in other High Courts of the country. But in all these cases, stays are in operation. So, in respect of laws challenged prior to emergency and during emergency, it is in the fitness of things that they are kept but of judicial review.

Here, in this connection, I want to utter a word of caution to the Government. Here, in the Ninth Schedule, we keep only those laws which are very necessary for the welfare and well-being of the people, laws which are progressive in character are alone put in there. If we put into this Schedule Bills in an *ad hoc* way, a tendency may develop in the States whereby they will go on making laws and ask the Centre to include them in the Ninth Schedule. And if this tendency develops, I have no doubt in my mind that the Law Minister will be flooded with requests from all States in large numbers. I feel therefore that it is time that the Law Minister takes care to see that such tendencies do not develop. Only progressive measures should be brought within the purview of this Ninth Schedule.

So far as the three Acts are concerned, regarding the Prevention and Publication of Objectionable Matter Act, Mr. Somnath Chatterjee, Mr. Gupta and Mr. Sinha made their points. So far as the point of Mr. Sinha is concerned, I have already replied to that point. The power always rests with this House. This House can repeal and can amend this Act at any time. Therefore, even if this is brought within the Ninth Schedule, that will not stand in the way of Parliament exercising its sovereign right. Of course one can have difference of opinion about certain Acts. But so far as the powers of this Parliament are concerned, it is absolute. It was only because this Parliament thought that it is necessary to pass the Prevention and Publication of

objectionable Matter Act, the Act was passed by overwhelming majority. One may have difference of opinion regarding this Act, but once it has become law, there should not be any objection in putting it beyond judicial scrutiny.

So far as the Motor Vehicles Act is concerned I request the hon. Minister to do some amount of explaining. The Act came into operation in 1969 and since then this Act could be there without being brought into the Ninth Schedule. What happened in between to bring this in the Ninth Schedule now? Only progressive measures are to be brought within the Ninth Schedule. What is the reason for bringing this Act in the Ninth Schedule? I hope he will convince us with cogent reasons.

But, I hope, you will give some ideas as to why this has been brought in. I do not, for a moment, doubt the *bonafides* because neither the Government is going to be benefited in any way by bringing in the Motor Vehicles Act in the 9th Schedule nor anyone by bringing in the Departmentalisation of Union Accounts (Transfer of Personnel) Act 1976 about which Shri Somnath Chatterjee said so much. The Departmentalisation of Union Accounts (Transfer of Personnel) Bill 1976 was passed by this House to provide for the transfer of officers serving in the Indian Audit and Accounts Departments to any ministry or department of the Central Government for facilitating an efficient discharge of the responsibility in connection with the compiling of accounts thereof.

Therefore, I feel that one reason may be that the Government wanted that these acts be taken out from the purview of detailed judicial scrutiny. But I feel that there should be a rational relationship between the progressive legislations and bringing such legislations within the Ninth Schedule.

I hope the hon. Minister will also do some explaining to the House as to why

[Shri Dinesh Chandra Goswami]

this Bill has been brought before us and he should also assure this House that there will not be a tendency on the part of the States or Central Government to bring all sorts of legislation in the Ninth Schedule simply because they may not stand the judicial scrutiny of the courts. We do not want that such progressive legislations be struck down by the courts or the implementation of such progressive legislations be stayed simply because there are orders of stay from the courts. After all, as Shri Indrajit Gupta pointed out, there are lakhs of cases pending today in different courts regarding the land legislations and we do not want that such things take place. To that extent, we are all in support of these acts being brought in in the Ninth Schedule.

While taking these Acts outside the purview of the Ninth schedule, it should always be kept in mind that inclusion of any act in Ninth Schedule is to the extent that it is an exceptional provision in the Constitution and resort to such an exceptional provision in the Constitution should be taken only under the exceptional circumstances. One should avoid all the Acts being brought in in the Ninth Schedule. The hon. Minister will at least try to enlighten the House why this Motor Vehicles Act has been brought within the Ninth Schedule. At least I have not been able to find any cogent reasons for that.

With these observations, I support this Bill.

SHRI C. T. DHANDAPANI (Dharampuram): Mr. Deputy Speaker, Sir, I welcome this Bill with this reservation with regard to two items—one in the Prevention of the Publication of Objectionable Matter and the other is with regard to item No. 133—Departmentalisation of Union Accounts (Transfer of Personnel) Act 1976. Though related, the Government was kind enough to bring forward this Bill before this House.

I do not know the reason for it—whether it is because the Government has got full faith in the progressive legislations or the prevailing political situations have compelled the Government to bring forward this legislation. Anyway, I support this Bill, as I said, except for these two measures. In regard to Article 297, the previous speaker, Shri Goswami, spoke in a detailed manner. We also support this measure brought forward by the Government. But, at the same time, it is too late for the Government to bring forward this legislation. I should say that Government have miserably failed to exploit or to tap the natural resources in the sea and, as a result, our national and developmental efforts suffered very much in a very bad manner. Anyway, I am happy that Government is going to bring forward some more progressive measures in this regard.

In this Bill, under item No. 133, there is the Prevention of Publication of Objectionable Matter Act. I want to know from the hon. Minister what does he mean by 'Objectionable matter'. It should have been defined by the Minister that objectionable matter is. There should be a general norm for that. Suppose I say something. It is not conveyed to Government because you may say that it is an objectionable matter.

MR. DEPUTY SPEAKER: It is in the Bill which has been passed.

SHRI C. T. DHANDAPANI: At the same time, if another Member, who is very friendly to Government, says the same thing which I did, it is not taken as an objectionable matter.

So, the Government should delete 130 and this should be considered in a political forum where all of us should be a party and then define a norm for it.

Secondly, I want to say something about Departmentalisation of Union Accounts. In this matter transfer of personnel is being

effectively made. Those who have been victimised on this account, they have made representations. These should also be considered.

Further, many State Governments had passed land legislation and Forest Acts, etc. Those things have been brought in this Bill. I congratulate the Government for having done so. Actually, we had been pleading over many years for their inclusion in the Ninth Schedule.

Sir, the Motor Vehicles Act has been brought in this Bill. Even in Tamil Nadu the previous Government was trying to nationalise certain routes. The fleet owners went to the Supreme Court and got a stay. I hope if the passing of this Bill the progressive measures will be implemented effectively and without any hurdles.

Sir, as regards the Smugglers and Foreign Exchange Manipulators Act I would like to emphasise that this should be implemented effectively. I would like to reiterate that the Ministry of Finance should implement it in a proper manner. Why I am saying so is that at present the stick is being used against a particular group of people and not all the smugglers are punished. That should not be so. The Government should be fair. Whoever is guilty of this offence should be punished.

Sir, on behalf of my party, D.M.K., I support this Bill except the two provisions of this Bill.

SHRI K. SURYANARAYANA (Eluru): Mr. Deputy Speaker, Sir, I am glad to support the Bill. While supporting this Bill, I want to refer only to the amendment to the Ninth Schedule. I could not understand why this Government before passing legislation on land reforms did not consult each other in the Departments and the States. When we asked the question in March, Mr. Shinde said:

"Judicial intervention, particularly in exercise of the writ jurisdiction of the High Courts has led to the grant of *ad-interim* injunction against implementation of the ceiling laws in many cases. In some of the States specific provisions of the ceiling laws have been struck down by the High Courts with the result that the implementing authorities have been finding it difficult to implement the laws in general. In many States, the response from the land owners to the general notice calling upon them to furnish requisite details of their land holdings has been poor. This has necessitated action in a big way on the part of the administrative machinery for collecting necessary details of the land held by such defaulting land owners . . ."

In some of the States the prescribed procedure is too cumbersome and time consuming to permit speedy implementation. Failures to strengthen the administrative machinery resulting from the paucity of funds is also one of the factors that is explaining why implementation has not been faster. Another important factor of delay in implementation is the lack of proper record of rights. During all these years—during the Second, Third and Fourth Lok Sabha—we were expecting that the Land Reforms Act would be brought before this House. This could be done only now and this has pacified our feelings. This is the first step, and it is not the last step, in this direction. The other reforms will follow the Land Ceiling Act. But here I am not able to understand what the Law Ministry's officials were doing while framing this Bill. They should have been very careful to see that there was no loophole left in this Act. There is no use of blaming the landless people and the small land-owners. They are not responsible for that. Wherever there is a loophole, or flaw, naturally any person would take shelter under that. There is no use of blaming the land

[Shri K. Suryanarayana]

owners and the landless people. Whatever Act is passed in regard to the land ceiling, they will accept that, because of the progressive policy of the Government. Even the Tatas and the Birlas cannot have any objection to this. But you are not taking proper care while framing the legislation. Therefore, I would like to request the Minister that in future before bringing forward a legislation like this, the Law Ministry should thoroughly examine the same. In his reply to a Question on 8-3-76, Shri Annasaheb P. Shinde said: "There are further difficulties and they are being got examined by the Law Ministry; and the State Governments are also expected to take steps expeditiously." Actually they have some interest in this.

The second thing is about the pending cases in the Courts. Some State Governments are not taking proper action or speedy action to amend the laws accordingly. Who is responsible for this? Could you not give direction to them? Could you not ask them to follow the Central Land Reforms Act? Now, another point is that there are benami transfers of land. All the benami transfers of land are being legalised. I am surprised to know how this benami transfers could be legalised. Transfers illegally effected are being legalised. How can you legalise the transfers that have taken place illegally?

I am a lay man and I do not know anything about law. We are the agriculturists and we know the feelings of the people. Whenever a legislation to this effect is brought forward by the Government, people in the villages are the first in the country to come forward and support the Government. The small landowners and the landless people are living on their own income, but the capitalists are living on the income of others. Therefore, I would once again request the Hon'ble Minister to take into consideration our feelings and see that this legislation is passed without any scope for

filing petitions in the High Courts or the Supreme Court in this matter. The law is there and its interpretation is done by the Courts. The lawyers help the Courts to interpret the laws. Shri Indrajit Gupta and another Hon'ble Member have mentioned about the loopholes in this Bill. Shinde had also said sometime back that there are some difficulties and they are being got examined by the Law Ministry and the State Governments are also expected to take steps expeditiously. I want to know from the Ministry whether the Law Ministry has examined this and what steps have been taken by the State Governments in this regard.

With this legislation, can we overcome all the difficulties in the implementation of the land reforms? We have fixed 30th June as the last date and Mr Indrajit Gupta and the other party leaders are laughing at us because we are not serious. The government machinery is not serious in helping us in any way. In my constituency, land reforms are being introduced. They are implementing the land ceilings etc. but they have not fixed any reasonable rate of compensation for the cost of land or trees standing on them. In my own district many middle-aged, well-grown Banganapalli mango gardens were cut because they knew they would get nothing more than a few rupees, say 30 or 40 or 100 rupees, by way of compensation, whereas by cutting the trees and selling them as fuel, they have got more than Rs. 2,000! When I brought it to the notice of the Collector, he said, "I have no powers to prevent them!"

As I said, whenever we bring any legislation before the House, there should not be any flaw and scope for the courts to interfere. Why should we be bothered so many times and why should we spend our time on such legislation? The statement of objects and reasons says:

"Recourse was had in the past to the ninth schedule whenever it was found that progressive legislation conceived

in the interest of the public was imperilled by litigation. Certain State legislations relating to land reforms and ceiling on agricultural land holdings have already been included in the Ninth Schedule ..." etc.

I want to impress on the government that they should not give any room for any doubts in making laws. That is the only way. If we go on like this, there is no end to difficulties in implementing the land reforms in the country. Our friend from Tamil Nadu referred to nationalisation of bus routes in Madras. When the rules are published, it is done in such a way as to suit the convenience of the officers. The affected party will immediately get a stay order! What is the use of spending so much on advertisements, etc. because if they nationalise one route, they have to spend at least Rs. 15,000 on advertisements. Somebody would give Rs. 1000 to a lawyer and get a stay! I am inclined to agree with Mr. Somnath Chatterjee and Mr. Indrajit Gupta that our laws are defective. Therefore, hereafter whenever you come with any law, please make sure that there is no loophole enabling the parties to go to the court and get a writ. With these words, I support the Bill and I hope others also will support it. If there is any need for further amendment, we can sit together and see what is to be done. I hope all the parties will unanimously support this Bill so that going to the court and filing writ petitions may be avoided. Government has already decided that by 30th June, land reforms will be implemented. I want to know from them whether this Bill will have retrospective effect or not.

With these words, I support the Bill.

SHRI G. VISWANATHAN (Wandiwash) : Sir, I am very happy, that some of the Land Reform Acts and Land Ceiling Acts are now being brought into the Ninth Schedule. This should have been done much earlier, but better late than never! There are certain points on

which I would like to get clarifications from the minister. When these Acts are included in the Ninth Schedule, it means we are taking them out of judicial scrutiny.

There can be no more challenges before the Supreme Court and the High Courts. But all laws cannot be flawless and there are bound to be defective laws. What will happen to those defective laws? Once these are put in the Ninth Schedule, how are we to review those? Hitherto, we were waiting for the High Court or the Supreme Court judgement. From now onwards, no High Court or Supreme Court is going to give its judgement on these laws. If some clauses are defective, how are you going to correct that? Moreover, the States may come and stand before the Law Ministry with dozens of acts so that they may be put in the Ninth Schedule. The Ninth Schedule should not become an asylum of all defective laws.

SHRI SOMNATH CHATTERJEE: That has to be utilised as gimmicks.

SHRI G. VISWANATHAN: I am not able to follow clause 2 of the Bill, that is, Exclusive Economic Zone. I would like to know from the Minister whether it has been agreed to by all the countries? What is the present position? I would like to get a clarification from the Minister.

There are two or three things which have been objected to by the Members both from this side as well as from the Ruling Party. Let me take clause 3, section 125, Section 66A and Chapter IVA. of the Motor Vehicles Act, 1939. I want to quote this for the information of the House.

- "(1) No person shall engage himself—
(i) as an agent or canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or

[Shri G. Viswanathan]

- (ii) as an agent in the business of collecting, forwarding or distributing goods carried by public carriers, unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government."

I do not know why Government wants to include this section to deal with bus brokers. A broker gets 50 paise if he canvasses for a Bus and I have never heard of this section being challenged in the High Court because these brokers are very poor people. I do not know why this is being brought under the Ninth Schedule which, I consider, is very important.

Two subjects have already been mentioned, namely, 130 and 133—Prevention of Publication of Objectionable Matter Act, 1976 and Departmentalisation of Union Accounts Act, 1976. These may be important laws but not progressive laws and they do not come under the category of progressive laws. I do not know why the Government is afraid of these laws. Who is going to challenge all these laws? Are you afraid of your own employees? For the economic welfare of the country, you are bringing certain measures which are to be brought under Article 31B of the Constitution, but certainly these acts should not come under the Ninth Schedule. After all, judicial interference is not the only major hurdle in the Ceiling Act. Why do people go to courts?

There are certain things which they really want to challenge, e.g. the laws on land ceilings, and go to the court. But there are other circumstances where the Government forces somebody to go to the court. I would like to quote a case, for your information. It has been published in *Hindustan Times* of 21st January 1975 and it relates to the land of five rivers, i.e. Punjab. It happened at Patiala. This is the news item:

'A land owner here has got the amount of compensation for his land acquired by the Government after 64 years.

It was in 1910 that the State Government acquired the land of Col. Balwant Singh for developing the parade ground. After 43 years, the Collector gave an award in favour of Mr. Prem Inder Singh, son of Balwant Singh, for payment of Rs. 10,000 but the revenue department did not agree with it and refused to pay.

The landowner approached the High Court which decreed the suit. The Punjab Government filed an appeal in the Supreme Court, which was rejected. He approached the High Court for contempt proceedings. It was at this stage that payment was made."

Who was guilty in this case? It is the Government which was guilty, because it forced him to go to the court. There was no other alternative before him. Government should see that people are not harassed, so that they do not have to go to the High Court or to the Supreme Court.

It is the lack of political will in this country which is the stumbling block for land reform; and mainly, it is not the judicial intervention, even though lakhs of cases are pending. If you are determined to implement the land reform Acts, you could have achieved tremendous results. But what have we achieved so far? According to the UNI survey made in 1975, about 40 lakh acres should have become available for distribution in this country after the land reforms. But only 2.16 lakh acres have been declared surplus, out of these 40 lakh acres. And out of 2.16 lakh acres, only 62,000 acres have been taken possession of. And out of 62,000 acres, only 20,000 acres have been distributed. From 40 lakh acres, it has come down to 20,000

acres. There is a proverb in Tamil which denotes an ant shrinking into an ant. This is what has happened in this case. Has this happened only because of the law courts? No. Normally, we should be reasonable while framing the laws *i.e.* lenient at the time of legislating; but we should be strict at the time of implementation. What has happened is something *vice versa*. We seem to be very radical in passing the legislation, but when it comes to the question of implementing it, nobody implements it. The other day I saw a report from Andhra Pradesh. The Finance Minister of the State was saying that if land reform is implemented, they will get 20 lakh acres of surplus land. Who is preventing them? After 1971-72, there is nobody to prevent the Congress party and the government. All the obstacles have been removed, whether they are in the States or at the Centre. But why is it that we are still talking about land reforms, and nothing has been shown to the country in concrete terms? That is why I think that it is the political will which alone can bring about land reforms; not only the mere passing of laws.

We are talking about cases. Let us take, e.g. the ruling party. Can the Congress party not give a directive to all its members, at least to its office-bearers, that they should not go to court, either by themselves or through their relatives and friends? If this is done, at least 50% of the cases will disappear. It may be there among other parties also. People who are enjoying political power challenge the Acts passed by themselves or by their own people. If that directive can be given, it will be good. I have in mind a Union Territory called Pondicherry. I was told by a friend from there, that almost 90% of the cases have been filed by Congress leaders, I am subject to correction. I would like the Congress party to take up the issue. We can do it and show to the people that we are sincere. In 1971 land reform was the main plank on

which the Congress party had won the elections, apart from the *garibi hatao*.

When we go to the polls again you can tell the people, "Here are the results and in the last five years, we have achieved so much. We have declared so much acre of land surplus and it has been distributed among the landless people."

I think most of the State Governments are not at all willing to implement this land reform measure, whatever acts may have been passed. They are only on the Statute Book. They have not helped the people. There are thousands and thousands of acres of land owned by the individual in many State in the name of *benami*. How are you going to tackle this problem by any law? You cannot do it or unless you form committees at the village level or at the block levels, which can point out *benami* holdings, and locate them and take action. You have to give statutory powers to those committees. You cannot solve this problem of *benami* holdings. I know that there are many people who still own 3000—5000 acres of land, in spite of the Land Ceilings Act. How are they able to do it? How is the Government tolerating it? You have to find out some methods. By bringing all these Acts under the Ninth Schedule, we cannot achieve results. In spite of all this, I support it. Even if there is any loophole, it should be plugged. But the real land reform achievement can be successful only by a political will and the determination by the Ruling Party to implement it in all the States.

SHRI B. R. SHUKLA (Bhraich) : Mr. Deputy-Speaker, Sir, protection of Ninth Schedule is given to the Acts of the State Legislatures as well as the Acts of Parliament, whether those Acts are good, bad and sometime indifferent, most of the Acts of Parliament or the State Legislatures are challenged, in a court of law on the ground that they are inconsistent with the Fundamental Rights. Many agrarian reform were enacted, but some,

[Shri B. R. Shukla]
 of them were struck down on the ground that they were inconsistent with the Fundamental Rights. Therefore, rightly, Article 31(b) and its necessary corollary Ninth Schedule was inserted in the Constitution.

The original purpose was that the Directive Principles enshrined in the Constitution should be given effect to the Legislature. Even if such Acts of Parliament or the State Legislatures have the effect of curtailment of the Fundamental Rights, those Acts should not be challengeable in a court of law. The Ninth Schedule has stood the test of time and also the scrutiny of law courts.

Now, under the current emergency the Fundamental Rights relating to personal liberty, personal freedom, Freedom of the Press and also to property are suspended. There is a national dialogue going on outside the Parliament that the Constitution is going to be amended in order to bring it in conformity with the need of the time. Perhaps there is still something very very urgent and in the mind of emergent the Government to bring this Bill to wards the close of the session and bring within its purview as many as 64 Acts, out of which nine Acts have been passed by the Parliament and the remaining by the various State Legislatures. So far as the nine Acts of Parliament are concerned, one of them was passed in the year 1939, that is, the Motor Vehicles Act. The Essential Commodities Act was passed in 1955. It was thoroughly discussed and amended in the year 1975. The remaining Acts are quite recent and most of them have been discussed in this House only during this year. Therefore, the facts, the circumstances and the provisions relating to those Acts are quite fresh in the minds of the Members of Parliament. Now, it is a happy feature that barring three Acts, there is general approval for their

inclusion in the Ninth Schedule, which has been given even by the Members of the Opposition.

Of course, they wished to have more time to go through the various State legislations. But it is also a fact which cannot be denied that many writs running into lakhs are pending in courts of law despite the suspension of the fundamental right under the Presidential Order. Therefore, the land reforms cannot be as quickly and as speedily implemented as they were expected to be. Some *via media* has to be found out to curtail the powers of High Courts and the Supreme Court to intervene in these legislations and to declare them *ultra vires*. In some cases, stay orders have been passed.

Normally, the term of Parliament or that of State Legislatures is only five years. Now, if a legislation which seeks to implement the progressive measure is stayed by an order of the High Court or the Supreme Court for five years, it means that all those promises which have been made in the manifesto remain ineffective and they cannot be implemented because, for five years, such measures will be under the consideration of the High Courts and the Supreme Court. Therefore, the attempt of the Government to include all these enactments in the Ninth Schedule is perfectly justified because it is prompted by a sense of urgency.

It would have been better if the Members had been supplied copies of the various enactments which are ought to be included in the Ninth Schedule. I would request the hon. Minister that because the Ninth Schedule is now becoming an ever-growing phenomenon before Parliament and there is no end to the inclusion of Acts in it, for future guidance, whenever any Act is sought to

be included in the Ninth Schedule, that Act must be made available in the Library of Parliament and the State Legislatures should be directed that copies of all Acts passed by them should be sent to the Library of Parliament and the translation of all those Acts, both in Hindi and in English, should also be made available.

The Government rightly trusts us. We are fully in support of this measure. But please do consider our lot also. You are asking us to approve a measure without giving us any opportunity to know as to what matters we are giving our approval. After all, Parliament is a sovereign body. It is not a sleeping partner in the system in which executive is a dominant partner. Executive is well-versed; it has got the requisite expertise; it drafts legislation and the Government, the Minister concerned, introduces the Bill in Parliament. And we give our solemn approval to whatever the Government, do or undo, in its wisdom or in its un-wisdom, in haste [or after proper deliberation. Therefore, I say, the quality of legislation should improve in our country. Sovereignty of Parliament should not be only formal. Sovereignty of Parliament should be a real thing and, in order to ensure that, the Members of Parliament should be enabled to apply their mind fully and the Government should evolve a method under which their participation becomes real and effective one.

So far as the amendment of Article 297 is concerned, it is a very welcome measure in principle and we are all agreed that the sovereignty of India should extend to the Continental Shelf and to all lands and minerals etc. underlying the portion within the territorial waters of India.

MR. DEPUTY-SPEAKER : Much beyond that : this Exclusive Economic Zone is 200 miles.

SHRI B.R. SHUKLA : Within the territorial waters, the jurisdiction is

always there but, beyond the territorial waters, our sovereignty would extend to the Exclusive Economic Zone. The words used in the Bill are 'Exclusive Economic Zone'

MR. DEPUTY-SPEAKER : Not sovereignty; it is only for economic exploitation of the area beyond the territorial waters.

SHRI B.R. SHUKLA : My only point is this—that you can now well appreciate that we have not been able to follow the exact connotation of the words used here. Therefore, the Hon. Minister should educate us as to what is the scope and what is the purpose of the legislation which he has brought before the House.

With this statement, I support the Bill. But I would again request the Hon. Minister to be more circumspect and more careful in bringing within the scope of the Ninth Schedule Act of Legislature for, though the intention is quite clear and the motive is quite good, by resorting to the Ninth Schedule again and again, Parliament is encouraging a tendency of slackness on the part of the State Legislatures and the State Legislatures will be under an impression that whatever they do, by passing an enactment they will ultimately get immunity through an Act of Parliament including them in the Ninth Schedule.

सरदार स्वर्ण सिंह सोखी (जमशेदपुर).
डिप्टी स्पीकर साहब, मैं इस कास्टीट्यूशन
(एडमेंट) बिल का स्वागत करता हूँ।

भ्रमी तक इस बिल पर जितने मेम्बर बोले हैं, उन में ज्यादातर वकील लोग थे। मैं इस बिल को वकीलों की नजर से नहीं बल्कि पब्लिक की नजर से देखता हूँ कि इस से पब्लिक का क्या भला होने जा रहा है। वकीलों की नजर तो ऐसी है कि वे सच्चे को झूठा और झूठे को सच्चा बना देते हैं और यही उन का काम है।

[सदरदार स्वर्ण सिंह सोबी]

बात यह है कि यह जो एमंडमेंट लाई गई है, इस के लिए अगर मैं यह कहूँ कि सरदारों वाली एमंडमेंट लाए हैं, तो गलत नहीं होगा क्योंकि एक दफ्ता में ही 64 एंट्रीज इन्होंने 9वें ग्रेड्यूल में कर दी। अगर इस तरह के ये तीन चार बिल के आये, तो जसा कि लोग कहते हैं कि कांस्टीट्यूशन को री-ड्राफ्ट करने की जरूरत है, उसकी कोई जरूरत नहीं रह जाएगी। इसलिए सरदारों वाली जो ये एमंडमेंट लाए हैं, उन के लिए मैं मंत्री जी को बधाई देता हूँ।

दूसरी बात यह है कि एक चीज देख कर मैं बड़ा हैरान हूँ और वह यह है कि हमें इस में कहीं हमारे बिहार का नाम नहीं है। बिहार में क्या हुआ है, वह मैं आपको बनलाना हूँ? वहाँ पर स्टेट लेजिस्लेचर ने टाटा की जमींदारी एबोलिश कर दी और उस को दूग, पांच, सात साल हो चुके हैं लेकिन उस के बारे में इस में कुछ नहीं आया है और कहीं उस का नाम नहीं है। इसलिए मैं कहूँ कि मंत्री जी इस तरफ ध्यान दें। और कोर्ट का जूरिस्डिक्शन खत्म हो रहा है। इसलिए मेरा कहना यह है कि इस चीज को भी इन्हें देखना चाहिए।

इस में कोई शक नहीं है कि यह एक प्रोग्रेसिव इनेक्विटी है और 20 प्वाइन्ट प्रोग्राम को इम्प्लीमेंट करने के लिए यह एमंडमेंट बहुत जरूरी है। ये जो एंट्रीज हुई हैं इन में सब बात आ जाती है। इस वास्ते मैं समझता हूँ कि ये जो एक्ट्स हैं, इनको इम्प्लेमेंट करने में हमें बहुत मदद मिलेगी।

15.00 अक्षरें

यह बहुत ही इम्पॉर्टेंट पीस आफ लीजिस्लेशन है। जो स्मगलर्स हैं, जो फारेन एक्सचेंज के "केटियर्स" हैं, जो "क्स इवेशन" करने वाले हैं, जो ब्लैकमार्किटर्स हैं उन के बारे में हम ने जो कानून बनाये उन पर प्रभाव करने में आसानी हो जाएगी, उन को जो स

कानून के जरिये पकड़ा किया गया है उस की बहुत ज्यादा जरूरत थी। इन लोगों ने अभी तक अपना बंधा छोड़ा नहीं है। कोर्ट केसिस में वेर होती ही है। कोर्ट्स की रिट की वजह से उन के खिलाफ कार्रवाई रुक जाती थी। ये लोग स्टे ले आया करते थे कोर्ट्स से। ये लोग टाइम पार करते थे ताकि कोई समय उन के हक में आ ही जाए और वे अपना बंधा फिर शुरू कर सकें। इस वास्ते इन के खिलाफ जो कानून आपने बनाए हैं उनको नीचे ग्रेड्यूल में रखना बहुत जरूरी था। और जो भी बिल पास आपने करवाए हैं और आप समझते हैं कि उनको इस ग्रेड्यूल में रखा जाना चाहिये उन को भी आपको एड करने के लिए जल्दी से जल्दी कदम उठाने चाहिये ताकि काम स्मूथली चल सके।

एमर्जेसी से पब्लिक बड़ी खुश है। वह चाहती है कि हम को चालू रखना चाहिये अगर यह दो चार, पांच साल और चालू रही तो मैं समझता हूँ कि सारा काम सही तरीके से चलने लग जाएगा। जितने भी हम ने काम किए हैं वे सभी इस में जुड़े हैं। यह आपने अच्छा किया है। एमर्जेसी को भी मैं समझता हूँ कि अभी कम से कम तीन चार साल और आपको कंटिन्यू करना चाहिये।

जो जगलात हैं, जो प्राइवेट भी हैं, वे जिन कंट्रिब्यूटर्स को दिए जाते हैं वे बड़ी लूट मचाते हैं। इन लोगों ने इन फारेस्ट्स को बिल्कुल खराब कर दिया है। ठेका लेकर इन लोगों ने इन को बरबाद कर दिया है। इन लोगों को अब मौका नहीं होना चाहिये कि कोर्ट में जा कर स्टे आर्डर ला सकें। फारेस्ट्स के बारे में जो आपने इस में रखा है इससे हमारी फारेस्ट वेल्य की रक्षा हो सकेगी।

जो एंटी सोशल एक्टिविटीज में लगे हुए हैं, गायरेक्टली या इन्डायरेक्टली, जो बड़े बड़े ब्लैकमार्किटर्स हैं उन को मैं मुल्क का दुश्मन

समझता हूँ। उनको सीधा करने के लिए इस तरह का कानून लाना बहुत जरूरी था।

इसके बाद आप एक और एमेंडमेंट लाने वाले हैं, ऐसा मैं ने सुना है। उस के प्रति से पहले इस एमेंडमेंट का ज्ञान बहुत जरूरी था। वह तो बाद में आया और उस के पहले यह जो आप एमेंडमेंट लाए हैं, इस में आपको बहुत फायदा हो जाएगा।

अब मैं अफसरों के बारे में कहना चाहता हूँ। कानून आप ने बहुत से पास किए हैं। अभी भी सरकारी अफसर दिल से कानूनों पर धमल नहीं करते हैं, दिल से काम नहीं करते हैं। कानूनों को दिल से लागू नहीं करते हैं। यह बात सेंटर के और स्टेट के दोनों ही अफसरों पर लागू होती है। मैं कहना चाहता हूँ कि डिस्ट्रिक्ट लेवेल—मेरे ने कर सेंटर के लेवेल तक जितने भी अफसर हैं उन सब को हिदायत होनी चाहिये और सख्त हिदायत होनी चाहिये कि वे ईमानदारी से काम करें, मुल्क की बेहतरी के लिए काम करें, दिल से काम करें। ऐसा वे करेंगे तभी कानून बनाने का फायदा होगा। कानून आखिर को लागू तो अफसरों ने ही करने होते हैं। इस वास्ते उनको आपकी तरफ से इसके बारे में सख्त हिदायतें भेजी जानी चाहिये।

जो पोलिटिकल पार्टियाँ हैं मैं समझता हूँ कि उन के सामने भी यह एक अच्छा मौका है और वे भी 20 प्वाइंट प्रोग्राम को लागू करने के लिए जो भी अपना कांटीव्यूशन कर सकती हैं, करें। हमारा मुल्क अन्दरूनी तौर पर मजबूत होगा तो हम पर कोई भी मुल्क हावी नहीं हो सकते। अग्रेज हम को धमकाया जा रहा है बाहर से। बड़े मार्केट ठुबियार हमारे दुश्मनों के पास आ रहे हैं। मैं समझता हूँ कि हमारा मुल्क अगर अन्दरूनी तौर पर मजबूत होगा तो हमारे आगे हमारे दुश्मन भी सिर झुकाने के लिए मजबूर होंगे। इस वास्ते जरूरत इस बात

की है कि हमारा मुल्क अन्दरूनी तौर पर मजबूत हो और इस काम में हमारी जितनी भी पालीटिकल पार्टियाँ हैं चूँकि वे भी पब्लिक की भलाई करने का दावा करती हैं, इस वास्ते उनको अपना कांटीव्यूशन देना चाहिये और इस 20 प्वाइंट प्रोग्राम को सफल बनाने में मददगार साबित होना चाहिये।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ।

श्री हरि सिंह (खुर्जा): माननीय अध्यक्ष महोदय, आज सदन में 40 वे संविधान मशौखन विधेयक को पारित करने के लिए चर्चा चल रही है। इस विधेयक के दो पक्ष हैं। आप जानते हैं कि हमारा जो संविधान है उस में बड़ी तेजी से संशोधन किये गये हैं और वह इसलिये कि संविधान भारत की जनता की आकांक्षाओं, इच्छाओं और उन के स्वप्नों को साकार करने का माध्यम और शस्त्र है। पवित्र पुस्तक न मान कर यह भारत की जनता के कल्याण उन की प्रण समानता शोषण विहीन समाज को बनाने में एक बड़ा सबल शस्त्र है। इस मौजूदा विधेयक के द्वारा हम अपने सागर सम्पदा का शोषण कर सकते हैं। हाल ही में न्यूयार्क में सारे देशों की एक कानफ्रेंस हुई थी जिस में 156 देशों ने भाग लिया था और उसमें भारत ने भी अपना दृष्टिकोण बड़ी मजबूती के साथ रखा, और वह दृष्टिकोण यह था कि पुराने इटरनेशनल ला के मुताबिक जो 3 मील का टेरीटोरियल वाटर था उसके बजाय 12 मील घोषित किया जाय इसके साथ ही 200 मील के इकोनामिक जोन का भी प्रस्ताव रखा और उस को पारित किया जाना चाहिये। यह दो सिद्धांत उस कानफ्रेंस में रखे गये थे। बड़ी खुशी की बात है कि जिस देश ने हम की सबसे ज्यादा मुबालिफत की अमेरिका ने, उस ने उसी कानफ्रेंस के दौरान 200 मील का जो इकोनामिक जोन था उस को अपने कानून

[श्री हर्ष सिंह]

में बना कर पास कर दिया और उस कान्फरेंस में अफ्रिकी मुल्कों ने भारत के स्टैंड को एग्रीशियेट किया और उनको स्वीकार करने के लिये अपनी स्वीकृति प्रदान की। आज जो सागर है वह किसी देश की सम्पत्ति नहीं है, बल्कि सारे संसार की है। और आज की बढ़ती हुई जन संख्या मानव के भूताबिक सागर सम्पदा को हम किसी की दया पर नहीं छोड़ सकते हैं। आप देखते हैं कि दुनिया की बड़ी बड़ी ताकतें फिशरीज का ऐक्सप्लायटेशन का और चाहती हैं कि इस तरह की पाबन्दी न लगायी जाय, क्योंकि भारत ने एक बड़ा अच्छा सुझाव दिया था कि एक सी ऐक्सप्लायटिंग अथोरिटी का भी निर्माण किया जाये, क्योंकि टेक्नीकली हर मुल्क इतना ऐडवांस नहीं है कि जो सागर के गर्भ से सारी सम्पदा को निकाल सके। तो यह जो खुशहाली की एक मोनोपली चाहते थे उसको भी भारत के स्टैंड ने बड़ी चोट पहुंचाया, और भारत का जो स्टैंड है वह अगस्त में होने वाली कान्फरेंस में माना जायेगा। उसी के संदर्भ में यह हमारा संविधान का संशोधन है।

हमारे टेरिटोरियल वाटर्स में जो खोज चल रही है, मिसाल के तौर पर हमारे तेल मंत्री ने काफी मेहनत से बीम्बे हाई सीज में पेट्रोल की खोज की है और वह दिन दूर नहीं है जब कि भारत इस तेल और पेट्रोल के मामले में सेल्फ सफिशियेंट हो जायेगा। इन सब बातों को देखते हुए यह आवश्यक हो गया था कि सागर के गर्भ में सम्पदा निकालने का कानून हमें बनाना चाहिये, और यह समय के अनुकूल है।

इस बिल का दूसरा रूप यह है कि बहुत सारे जो नये-नये कानून स्टेट्स के होते थे उनको नीचे शीड्यूल में शामिल करने के लिये सुझाव पेश किये गये हैं।

— मैं कहना चाहता हूं कि

The Essential Commodities Act, 1955.
The Smugglers & Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, The Donated Labour System (Abolition) Act, 1976.

एक के बाद एक जमीन के बटवारे के सिलसिले में, लैंड सीज़िन के बारे में नये-नये मेज़र्स को नीचे शीड्यूल में शामिल करने के लिये सरकार ने यह विधेयक प्रस्तुत किया है। आप को मालूम होगा कि जो भी मेज़र्स सरकार लाया है कल्याणकारी योजनाओं के लिये, देश में खुशहाली और समानता लाने के लिये तो जो री-एक्शनरी लोग थे, जो पूंजीवादी थे, जो समानता नहीं चाहते थे उन्होंने सारे मेज़र्स के खिलाफ कोर्ट्स में आ करके मुकदमें दायर कर दिये। हमारी जो सारी योजनाएं थी, वह धराशत में आकर फंफू गईं। समाज बहुत धागे जाना चाहता था परन्तु चन्द जो हिन्दुस्तान के डेकेशर थे, जो दूसरों के शोषण पर अपना जीवन बिता ले थे, जो समानता नहीं चाहते थे, उन लोगों ने कानून का सहारा लेकर उन्हें उधमसा दिया था। इस बिना मैं जो शीड्यूल किये गये हैं, वे इस बात के द्योतक हैं कि हमारी केन्द्रीय सरकार इन नये-नये कानूनों के जरिये हम को किधर ले जाना चाहती है।

यह कहा जाता रहा है कि संविधान के मून में अनेक बार संशोधन कर के हिन्दुस्तान की जम्हूरियत को खत्म किया जा रहा है, समानता और फ्रीडम आफ स्पीच को खत्म किया जा रहा है। आप गौर से देखिये कि पिछला जो वक्त गुजरा था उस में हिन्दुस्तान में जो रि-एक्शनरी ताकतें थीं, उन्होंने सहारा दे कर एक नया बातावरण पैदा कर दिया था? आज हमारी सरकार जो नये-नये मेज़र्स ला रही है, उस से उस ने हमारी डेमो-

केती को बचकूत किया है, कलौकी-डेट किया है, हिन्दुस्तान में शांति और धर्म का वातावरण पैदा कर के हिन्दुस्तान के हमें को संसार में बढ़त ऊँचा किया है। मेरा कहना यह है कि यह सगोचन सामयिक है और समय के अनुकूल है। यदि इस प्रकार के नियम जल्दी-जल्दी पास किये गये तो इससे भारत का भविष्य उज्ज्वल होगा।

मैं इन्हीं अवकाशों के माध्यम से संशोधन का समर्थन करता हूँ और इसके पक्ष किये जाने का भी समर्थन करता हूँ।

DR. H. P. SHARMA (ALWAR): I rise to support the Fortieth Constitution Amendment Bill.

I would like to confine my observations to Clause 2 of the Bill which seeks to amend Article 297 of the Constitution. The original Act 197 consist of only one clauses but here, as amended it would consist of three clauses. Clause (1) is the same as the Article as it stands to-day with the addition of the 'exclusive economic zone'. There two new clauses (2) and (3) where clause 2 again appears to repeat or make it more inclusive of the scope of the Article, but it is my guess that it is also included there because Clause (1) says:

"All lands, minerals and other things of value..." Maybe there are other things which may not be of value, but we may not like the incursion of foreign powers into this zone. That is the justification for inclusion of clause 2.

Clause (3) defines that it will be the Parliament instead of the President who will define the limit of the territorial waters and the continental shelf, the exclusive economic zone and other maritime zones. In clause (3) there is an addition of words 'and other maritime zones of India, which I welcome because this will preclude the necessity of amending the Constitution again.

If there are other requirements and if the technological advancement requires that other zones be included, then, by this amendment Bill we will not need to have recourse to another amending Bill. The United Nations has been trying to grapple with the problem of hammering out a consensus on the divergent claims of nations. The UN has held two major conferences, one in 1958 and the other one in 1960 but both the conferences failed to evolve any a agreed solution. Now, the UN is busy with the third conference on the laws of the sea.

I mentioned these things because whatever scope is sought to be extended by this amendment can be eroded by what goes on in the U.N. Conferences. If the Government is not vigilant or does not make its efforts very strongly, then all these advantages... which are sought to be extended to our territorial waters can be eroded. I know it is more easily said than done, because initially there were very few naval power nations. I just wanted to mention that in 1909 when the International Conference of Naval Powers was held, only 10 powers participated in it. But now 156 powers are there and that also includes 52 or 54 land-locked nations. That creates another problem of its own.

Right now we are concerned with three major aspects which are mentioned in the Bill. One is the Exclusive Economic Zone. Most of the countries agree with the concept of exclusive economic zone extending to 200 miles. But there are two major opponents of this concept. One is the land-locked nations which see that if the concept of 200 miles is agreed to, the benefit of coastal sites will be lost. The other is the super powers. They are insisting on the freedom of the High Seas in the exclusive economic zone. It may be of interest to the House that there are no Division base...

MR. DEPUTY SPEAKER : Super powers are not against the exclusive economic zone.

SHRI K. NARAYANA RAO: There is over lapping.

MR. DEPUTY SPEAKER : I think America has unilaterally declared economic zone within 200 miles.

DR. H. P. SHARMA : I would submit that America has taken 200 miles fishery zone only and not the economic zone, to take effect from 1977 and till then it is a sort of threat on the negotiating nation as to what kind of agreement they evolve.

I was submitting in regard to the exclusive economic zones, the super powers have agreed that there should be freedom of the High Seas. They are all combined. There is no ideological division on that.

MR. DEPUTY SPEAKER : You have mixed up.

DR. H. P. SHARMA : I stand corrected if I am wrong. Freedom of the High Seas is being sought within the exclusive economic zone. The Minister will clarify.

SHRI SOMNATH CHATTERJEE: The right of navigation is there.

MR. DEPUTY SPEAKER : Navigation is different.

SHRI SOMNATH CHATTERJEE : That is what he has meant.

MR. DEPUTY SPEAKER : Let him go on. (*Interruptions*). You should make a difference between the freedom of navigation....

SHRI K. NARAYANA RAO : The freedom of the High Seas is now an idea of the Past. It is dead and gone.

MR. DEPUTY SPEAKER : Let him carry on. (*Interruptions*) Dr. Sharma, please carry on. (*Interruptions*) Mr. Rao, you cannot make a speech by interruption.

DR. H. P. SHARMA : I just submitted and I stand corrected on that that major naval powers have insisted on having the

right of High Seas—right of free navigation through the exclusive economic zone and the Minister can correct me if I am wrong.

There is another aspect which is being discussed by the UN. That is about the Archipelago status for Andaman, Nicobar, Lakshadweep, Amindivi, Minicoy and other islands. The exclusive economic zone idea is very much tied up with what is granted for these islands. The major powers again have opposed India's efforts. They are making distinction between Archipelago States and Coastal States with islands. For example, Philippines is an Archipelago State. India is striving to secure the Archipelago status for Andaman, Nicobar, etc. and the Government would have to take major efforts to secure this status for these islands. This is connected with extension of the scope of our maritime interests. There are discussions going on on the evolution of International Sea-bed Authority.

MR. DEPUTY SPEAKER : We have nothing to do with that.

SHRI K. NARAYANA RAO (Bobbili): How can you say that we have nothing to do with that ?

DR. H. P. SHARMA : Perhaps these subjects are very much intimately connected with what goes on in the UN conferences.

MR. DEPUTY SPEAKER : They are only seeking this opportunity to put in the Constitution that at the appropriate time we shall declare what should be our exclusive economic zone.

DR. H. P. SHARMA : It is directly connected to the objections which are being raised by landlocked States. These landlocked States demand the right of transit. They object. So there has to be a compromise.

MR. DEPUTY SPEAKER : They want a share. They are not objecting. They just want a share.

DR. H. P. SHARMA : Whatever it is, there has to be negotiation. They are insisting on reciprocal transit right. This is

connected directly to the exclusive economic zone idea. These are some of the major aspects of discussion which are going on there. Government will have to make vigilant efforts to secure the rights of this country. Some critics say that the conference will come to nothing. I hope it will not be so. We should know what should be in the best interests of this country

Sir, we did not sign the Non-Proliferation Treaty. For that, they have not condemned us. If the primary or basic interest of the nation is challenged, then I think, we should be prepared to take our own line and proceed on, the lines as the Law Minister said, of bilateral negotiations.

SHRI K. NARAYANA RAO : Mr. Deputy-Speaker, Sir, at the outset, I must apologise for my unwarranted interruption.

Anyway, I am going to be as brief as possible. I would like to divide this Bill into three parts. The point touched upon by Shri Somnath Chatterjee but not dilated upon was about the impact of this Bill on the Centre-States relations. There is a point in what he said. He did not commit on that. He did say that there was no case law on this subject. It is not really true.

SHRI SOMNATH CHATTERJEE : There is no case law on the subject of Centre-State Relations.

SHRI K. NARAYANA RAO : There is a case law so far as centre-state relations are concerned in regard to territorial water.

SHRI SOMNATH CHATTERJEE : What is meant by the term 'for the purpose of the Union' appearing in the Bill?

SHRI K. NARAYANA RAO : I would come to that. You said that there was no case law about the Centre-State relations. (Interruptions) So far as territorial water is concerned, not only now but as early as even in 1935 Act, there was a

case law in Madras versus Ramnad's case and now about the Bombay Port Trust Authority about the extent of territorial water. A question was raised in the Bombay High Court. (Interruptions). It was long argued and it was decided in favour of the Central Government. I am stating one by one. You also raised a point—what is meant by 'for union purpose'.

SHRI B. V. NAIK (Kanara) : Please don't get floored!

SHRI K. NARAYANA RAO : The problem raised by him was about the term 'union purpose'. What is the sense of it? It is only to get out of the difficulty that this Bill has made it abundantly clear that all the resources in the territorial waters and in the economic zone and also in the continental shelf, that is now 'Bombay-high', they want to give to the Centre. It is made very clear in this Bill. He may argue elsewhere about that part of it—not here.

SHRI SOMNATH CHATTERJEE : Probably, you were not clear yourself!

SHRI K. NARAYANA RAO : I cannot understand everything because I am not God, I am not Mao to understand all that. This Bill touches the purpose of union. Now, I come to the second part of the Bill—why the whole lot of the enactments is being entered in the Ninth Schedule? You made a point on that. I do not deny that part of it. He started with 1950—we are now in 1975. Once you concede that point . . . (Interruptions).

SHRI SOMNATH CHATTERJEE : You are taking the country backwards!

SHRI K. NARAYANA RAO : Once you concede that point we were wiser than the founding fathers amending the Constitution incorporating therein certain Acts in the Ninth Schedule from the very First Amendment to other amendments till now, you have not been able to argue

[Shri K. Narayana Rao]

on that. I shall go still further and say that from 1950, certain enactments have been included in the Ninth Schedule. Now, that includes some other enactments too. What is wrong in that ?

Now, I come to the third point, the most vital point. This is the most important point, namely, economic zone and continental shelf. On that point we are going to enrich very much. We are arming ourselves by bringing this amendment in the Constitution. Mr. Chatterjee referred to Centre-State relations with regard to territorial waters and quoted from the speeches of Dr. Ambedkar. Our object is that States should not have anything to do with the territorial waters. It should be with the Centre. This change in the Constitution makes this position abundantly clear.

Sir, the Constitution was framed in 1950 and since then till today much water has flown into the sea. When we formulated the Constitution we did not know anything about the economic zone and continental shelf. (*Interruptions*).

When we formulated the Constitution we knew only that the territorial waters of British India extended upto three miles and now under the Presidential Order it is 12 nautical miles.

MR. DEPUTY SPEAKER : Mr. Rao, please conclude. I have already called Mr. Naik. Bombay High is much beyond the territorial waters.

SHRI K. NARAYANA RAO : These are all overlapping. I conclude.

SHRI B. V. NAIK (Kanara) : Hon. Deputy Speaker, Sir, my learned friend, Mr. Narayana Rao was just at the point of Bombay High. Sir, along with our friends Sarvashri Salve, Gupta, Raja Kulkarni, Pandey and Azad we had the rare opportunity of visiting Bombay High and that was the reason why I was enthusiastic about participating in this debate.

We had the good opportunity of having a close look. Sir, I would be failing in my duty in my individual capacity as a citizen of this country if I do not pay my tributes to the excellent work that is being done there under the O.N.G.C.

SHRI SOMNATH CHATTERJEE :
Because of your visit !

SHRI B. V. NAIK : Because I have visited that place, I am in a position to know about that. (*Interruptions*).

And there was a reason why Mr. Somnath Chatterjee was not taken. I do not think that the Petroleum Ministry have any doubts of sabotage or anything like that.

(*Interruptions*)

Excellent work is being done by a team of young engineers. I hope our learned friends will be able to appreciate it; and they have been carrying on the excavation work about which today the Minister, Mr. Malaviya, laid a statement on the Table of the House and I think the details are known that this small patch of land, hardly an area about 200 kilometres long and about 50 kilometres wide—as big as a district, let us say—is capable of yielding to us in the neighbourhood of about 10 million barrels of crude oil per annum. That will be virtually about 70 to 80% of our total requirement. Of course, the demand would outstrip the supply, at least in the foreseeable future. Therefore, this Fortieth Amendment Bill assumes very great importance as a practical step to be taken in this August House in trying to define and extend our area of interest. I am deliberately mentioning the words 'area of interest'—because one of the things which came to our notice was that our multi-million rupee ships *Sagar Samrat*, *Anveshak* and *Shenandoah* are not adequately secured and protected and not only the value of the oil will run into billions of rupees but its installation we have got at an extremely high cost,—Rs. 20·0 crores or so—for the *Sagar Samrat*; the expenditure is about \$25,000 per day,

that is, Rs. 2.0 lakhs per day for another American oil driller. All these things have got to be protected. Now, all these young boys are away from Bombay city, that is about a hundred kilometres. But they are near the urban metropolis. These young boys can come to the shore after a stay of fortnight at Bombay High and after staying in Bombay they can again go to work. They are doing extremely good work and they have shown a good result. Now out of 3000 miles or its equivalent in kilometres of coastline, the extent to which we have been able to do the exploration is not even measured up about 1/20th of the total area which we can easily explore by off-shore drilling, even for mopping up we have got that *Amveshak* ship which has been taken up for the survey of the mineral wealth. It has been purchased by our ONGC. But, by and large, leaving aside this small belt of 200 kilometres—or put it at the most about 200 or 300 miles, the long coastline remains fairly unexplored except for the Kaveri Basin and except for the area near West Bengal, leaving those small pockets. Therefore, we know virtually nothing of what is contained in the long coastline.

Now, the Fortieth Amendment Bill is one of the most important pieces of legislation, that is the first part of it that we are adding to our Constitution. Sir, in this, there are three definitions made. One is about the territorial waters. In spite of the controversy, it is fairly well-defined, internationally accepted, though they say that International Law is no law because there is no strong arm of the Police of the International stature in order to enforce its agreement—multinational or bilateral or whatever; it is. But when we speak of territorial waters, Sir, we are in safe waters. When we speak of the exclusive economic zone, we understand, on the basis of the international dialogue that has been going on, right from China to U.S.A., they have made laws extending the exclusive economic zone to 200 miles from the shore line—that it

should give us 3500 × 200 miles. It should give us that much area under our economic zone.

It means about 7 lakhs of square miles will be added on to us. But we do not know what exactly is meant by maritime zones. In this behalf, I really compliment the United States Intelligence System.

As if made to order the *Span Magazine* has brought out its latest issue of June, 1976, containing the reactions of Mr. Henry Kissinger, U.S. Secretary of States, to the new proposals for the Law of the Sea. Mr Kissinger said:

"For decades we had known that the deep seabeds contain great potential resources of nickel, manganese, cobalt and copper—resources whose accessibility would contribute to the global economic growth in the future."

I have no doubt that with the latest advanced technology, particularly satellite tracking and satellite infra red photography of not only the minerals under the surface of the land as well as the seas but also about the marine life, and diseases of plants, etc. this sort of x-raying of the earth's resources has definitely shown that there are vast amounts of resources under the seabeds. I can say on the basis of documentation and classification of date which these technologically advanced societies have developed that what we are seeing here as the possibility of resources under the seabeds is not even the tip of the iceberg. Under the circumstances, 200 miles of exclusive economic zone could not have been more timely than now and I compliment the Law Ministry and particularly the most effective ministry in this behalf, the Ministry of Petroleum and the Minister, Shri K.D. Malaviya for his foresightedness.

This is a fairly long and interesting document, as all statements of Mr. Kissinger are. What is it that is really at the mind

[Shri B. V. Naik]

of these major powers of the world? They have taken it for granted that today or tomorrow every littoral country in the world will lay its claim to the exclusive economic zone. Just as territorial waters became the controversy in the 19th century, by the close of this century, exclusive economic zone will have become a fact of life in international conduct. They are not worried only about that. The real catch of the technologically advanced super powers of the world is as to who should command the deep seabed. The entire thrust of the statement of Mr. Kissinger on 8th April 76 is regarding the deep seabed. Everybody knows that deep oceans like the Pacific Ocean, Indian Ocean and others, are real repositories of minerals, oil and other wealth. Just as in the 15th, 16th and 17th centuries there was a sort of gold rush for the conquest of the land areas of the world where colonialism was born initiated of course by the British when they went on parceling outland masses particularly in the continents of Africa and Asia, similarly a race might ensue in case enlightened and alert nations of the world like ours do not wake up in time. In this as usual it should not be the fate of a member of this House once again to quote exclusively from Mr. Kissinger's statements. Of course, they have better data processing machinery. But why is it that we are not able to take the initiative in the form of bringing a draft treaty or draft proposals at international expense? Why is it that I must do my home work and read the text-book of Mr. Henry Kissinger, as if his is the last word on international law or the seabed controversy?

We should be able to do certain amount of home work, particularly as a leading nation in the Third World in regard to these deep seabeds which if left unattended to, might become the monopoly of the big cartels of the world who have all the technology. Dr. Cheema, General Manager of the Offshore Drilling has confirmed that the best technology in the world today is

the American technology. Under the circumstances, we should take up, wherever it is, in the international forums or inside the country, an activist role in trying to defend the claim of the littoral countries in regard to the wealth that is there in the deep sea particularly in the Indian Ocean. We have got 3500 miles of coastal area. Now we are going to say exclusive economic zone where we are going to exploit all the sea beds, will be that of India. What is the position? The crucial test of passing this amendment will be that we will pass a tall order on the Indian Navy. Can we at least protect the Indian fisheries in the coast of Andamans? Can we at least protect fisheries within 200 miles in the Indian Ocean with our Navy? Is our Navy equipped to protect all the seas? Under the circumstances, we will pass an order on the Indian Navy which will remain unimplemented just as our campaign would not work in the case of smugglers unless patrol boats were provided to the Customs Staff.

There are incongruities in our Constitution. Fishing within territorial waters—now it is 200 miles from the coast—is a State subject. I would like to know even one State which has got a ship or even a motor boat. Then how is the State Government going to enforce the law in regard to the fisheries from its coast up to a distance of 200 miles? Why are we asking the State Governments to take up a responsibility which they are unable to shoulder? Therefore, the time has come to incorporate fisheries particularly, coastal fisheries and the marine fisheries in the list of Central Subject. If that is not acceptable to the States because it requires consultations and ratifications by at least half of the States, then kindly incorporate it as early as possible in the Concurrent list.

With these words, I support the Bill.

SHRI N. K. P. SALVE (Betul):
Mr Chairman Sir, before I come to making my submissions very briefly on two questions of the Consti-

tution which this bill seeks to amend, I associate myself fully and completely with what Mr. Naik had to say about the magnificent and excellent work that we had the privilege to see at the Bombay High drilling wells. I regret that a person of the eminence of Shri Somnath Chatterjee, and his colleagues should have ridiculed what Mr. Naik had to say by way of a tribute.

SHRI SOMNATH CHATTERJEE:

I never ridiculed what he had said. I said that they were doing good work.

SHRI N. K. P. SALVE: I am sorry I misunderstood the hon. Member. I apologize. But I must reiterate my salutations and the salutations of this House to those dedicated men who are working day and night, several miles away from the shores, who work for 28 days continuously off the shore, and for 28 days on the shore. When we asked them to when they slept and when they relaxed, they said: "We take the barest minimum time necessary to keep going. All that we want is oil, and more oil for the country." That symbolizes the spirit of this country an absolutely uncompromising struggle for the economic emancipation of this country; and we wish them all luck. In fact, I complained to the Minister concerned that some more publicity in the papers and in Parliament was necessary about the tremendous work and achievement of our people in that region.

Coming back to the provisions of the Bill, the law of the seas is not my subject. Therefore, I should not rush in where the angels fear to tread, on technical basis; but Sir, there are some doubts which come to my mind, for which I do seek certain clarifications. Originally Article 237 contemplated sovereignty only over the territorial waters, which was up to 12 miles, i.e. the limits of national jurisdiction. In 1963, we amended our constitutions and extended our jurisdiction over the continental shelf. In other words, according to the law as it stands today, we have

what is known as the territorial jurisdiction over the natural resources of territorial waters and the continental Shelf. Thereafter the law, as it stands today, emanating from the noble concept of the ocean being the common heritage of mankind, had several limitations. The law, as it is, is based on two basic principles, viz. of sovereignty and freedom; sovereignty of the coastal state in the limited strip which adjoins the sea or which adjoins the State—subject, of course, to the right of innocent passage, to which Mr. Somnath Chatterjee was referring to, earlier. In due course of time, however, it was found that this was utterly inadequate and it became necessary for us to give the new order for regulating and working the entire ocean vehicle system. The gradual expansion and diversification of man's activities in the marine environment involve an extension of the interests of the coastal States; and they were accompanied by a progressive extension of the coastal States jurisdiction. And it is because of this that we have once again been compelled now to amend our Constitution so as to take in what is described here as Exclusive Economic Zone and also other maritime zones. In other words, to be able properly to exploit all the living and non-living resources that are embedded in the sea and those in the sea itself, various countries have considered it necessary to revise the entire law of the sea.

It is in that connection that in 1972, the United Nations constituted a first committee to go into the matter. They had deliberations in New York in 1972. Then in 1974, they had also deliberations. Finally, in Geneva, in 1975, they had produced what is known as "Single Negotiating Text" where they have formulated proposals on the basis of which discussion has taken place now in New York. All that we are doing now is making what is known as enabling provisions in the Constitution. But, with reference to this, there are certain basic doubts which I want to express

[*Shri N. K. P. Salve*]
 here in this House and to which I do hope there would be some answer coming from the Law Ministry. The first and the foremost which comes to my mind is the wording of what is known as the territorial waters continental shelf, and now the exclusive economic zone I think this will have to be divided into two parts. So far as the sovereignty of the State is concerned, one will be territorial sovereignty and another will be what is known as functional sovereignty. Now functional sovereignty is one which gives jurisdiction over a set of determined uses.

As far as what is known as exclusive economic zone is concerned, we are going to have not territorial sovereignty but only functional sovereignty. What about the very serious problem of security? For the purposes of fiscal control and quarantine, certain powers were sought to be given even under the existing law beyond the territorial waters. But they are not enough with all sorts of pressures building up, different political pressures building up, different logistic pressures building up and different military pressures building up.

In a country such as ours, a peace-loving country which does not want a centimetre of land of anyone else's nor tolerates anyone else's trying to take anything out of us, how is our country to safeguard its vital installation in Bombay tomorrow which happens to fall in the exclusive economic zone? If our right is only going to be what is known as functional sovereign right, may I therefore know—because all that you are providing here is that you are vesting, so far as exclusive economic zone is concerned, all the resources in the Union and allowing it to be held for the purpose of the Union—what is the precise technical meaning of the phrase “exclusive economic zone, of India shall be in the Union and be held for the purposes of the Union?” Possibly you will explain it. What I understand is that the State as such will not ask for its share or some such thing. I do not know what it means. But I am not on the ques-

tion Now, I am on a different question. Of what use would be this exclusive economic zone to these peace-loving countries who, day and night, have been spending their resources, exploiting their resources, doing it for their people, for their economic emancipation, to carry on the economic battle for the people?

If tomorrow super-powers, due to their manoeuvre, are going to use certain powers and bring about certain hostilities, how shall we defend ourselves? If a plea is raised that this is what you are doing, so far as your resources are concerned, carry on merrily; for the rest of it, you have no authority to go into war with us, I only hope that the situation will not be as ridiculous as this is.

(Interruptions)

AN HON. MEMBER: It cannot be that.

SHRI N. K. P. SALVE: Is there or is there not any difference between what is known as territorial sovereignty and what is known as functional sovereignty? I am not speaking through my hat. The concept has been well defined in a tremendous article. I have been reading an article by R. B. Podu, a great authority on the laws of the seas, who has written “A New International Economic Order and the Law of the Sea”. If that is so, we should be apprised of this matter. Various new concepts have now developed. The concept of a new economic zone possibly was not there ten years ago. But it has come today. Shri Swell was refuting this idea. With your permission, I am just going to read from this book entitled “The New International Economic Order and the Law of Sea.” the It says:

“According to the present law of the sea, coastal States in principle exercise no jurisdiction beyond the contiguous zone apart from the sovereign

right over the natural resources of the continental shelf. Over the last couple of decades, however, an increasing number of States have claimed sovereign right over resource and jurisdiction for a number of purposes in marine area far beyond the territorial sea often upto 200 miles. The single negotiating text offers national recognition to this trend by proposing the establishment of an exclusive economic zone extending to a maximum....."

26.00 hrs.

About the right to protect 200 miles exclusive economic zone or whatever be the limit—I say, 200 miles because it is mentioned to be 200 miles—which the Parliament will determine and, on an appropriate day, when we are going to determine that, Mr. Indrajit Gupta who was extremely worried as to why he has not been told what is the precise concept of the territorial waters, what is the precise concept of the continental shelf, what is the limit of the continental shelf, I want to know from the hon. Minister, how are we going to determine the limit of the continental shelf? Is that not determined by nature itself? How can Parliament determine the limit of the continental shelf? Parliament cannot do so. The continental shelf is a natural projection. I hope, if Parliament knows what a continental shelf is, it will certainly accept it. Parliament is not going to determine the limit of the continental shelf. It can certainly vote for a certain limit of the exclusive economic zone and the continental shelf.

Today, as it is, in article 297, we have absolute territorial sovereignty over the continental shelf. That is the existing law. So, I am not worried about that. But the basic question that still begs itself very seriously and which needs to be solved remains. Diego Garcia is a problem. What about marine pollution? What about sea pollution? How are we ever going to

have sufficient powers to check the most menacing trend which has been seen of late in what is known as the marine pollution? The development of super tankers, the liquefied natural gas carriers, submarine navigations, ships with nuclear propulsion and other things are creating new hazards to the entire marine environment and to the safety of navigation.

How are we going to protect our interests in the exclusive economic zone? I am sure, some deliberations must have taken place on this point. What I submit is, since it involves the basic question of the security of the nation as such, because what is happening in Bombay today, what we have installed today is the national project, I should like to know at this stage itself whether Constitution, is adequately and sufficiently being amended to take care, so that we can take action if ever, God forbid, it is necessary in that direction and also we can take adequate and sufficient steps to ensure that marine environment is not polluted and what is known as exclusive economic zone. In fact, as a result of this pollution, it is likely that our living resources are likely to be affected adversely. It was said due to certain nuclear propelled submarines being taken through these zones, a large many fish had died in certain seas. This sort of pollution resulting in destruction of such vital natural resources of the country has to be taken care of.

That is so far as the first part of the Constitution Amendment Bill is concerned. I do hope, we will be getting satisfactory answer from the Law Minister on the points I have raised. I only hope that the fears I have mentioned here are dealt with in a proper manner. I know, ultimately, it will be done by international treaties and conventions. In terms of this Bill, we will be able to make what is known as a municipal law. It is ultimately international treaties and conventions which will determine the basic postulates and the basic concepts of what will constitute the exclusive economic zone.

[Shri N.K.P. Salve]

So far as the second part is concerned, that is, about the Ninth Schedule, the speakers on this side and on the other side of the House have come out with a very scathing indictment of the Law Ministry. It will be unfair of me to take a very uncharitable view, in a very strong language, to what has already been said. I do hope, the Ministry, however, will appreciate the good intentions of the House behind the advice which has been given to the Ministry. The Ninth Schedule or article 31B has been inserted not for the fun of it, not because Parliament liked it, not because Parliament wanted to legitimise or give a perpetual lease to unconstitutional laws which were discriminatory, arbitrary and irrational laws. It was for a limited purpose.

When Parliament found that the courts were unduly, if I may use the word 'harassing' the States, and sometimes the Union also, in respect of certain progressive legislations, it was considered necessary that these legislations and enactments be properly entrenched, so that the socio-economic programmes that we have for progressive purposes, for implementing certain policies, are effectively implemented. That was the basic purpose why Parliament so willingly agreed to insert article 31B and agreed to entrench several enactments and legislations under the Ninth Schedule. But seeing the manner in which they are inserting enactments after enactments under the Ninth Schedule, may I ask the Minister whether this is to be used as an umbrella to shelter discriminatory, irrational and unconstitutional laws? Is that the purpose of Parliament having given this power? Certainly, that is not so. On land ceiling, we had a big debate here; on the land ceiling law which was sought to be entrenched, we said that, so far as the principle was concerned, we were in entire agreement with him that in urban areas lands must be taken, there must be socialisation of land and that the activities of the people speculating on land, putting their black money on land and all mal-

practices which were going on *vis-a-vis* the land transactions must come to an end. And Government awoke to this responsibility and came rather belatedly with the Land Ceiling Act. But was it ever the purpose, while enacting the land ceiling laws, that you should leave people who have crores and crores of rupees worth of immovable property to be absolutely free and rope in a man who has hardly one plot for a house to build for Rs. 30,000 or so in Nagpur or Kolhapur or such smaller places? Has that not happened? If that has happened, you may be utterly monolithic you may be making an inflexible law; one cannot challenge it in a court of law, on has no remedy, one must accept it as the last word.

My respectful submission is this. I am making this mention only from one viewpoint that, after all, if you put something in the Ninth schedule, you should make sure that it is really necessary for you to do so, it is absolutely imperative you should do so only if you are driven to it as a result of an objective and honest evaluation, that is if you do not do so, maybe in a court of law you are likely to be put under a difficult situation, not because the law is discriminatory, not because the law is arbitrary, but because the courts are not willing to see the impact of the Directive principles enshrined in the Constitution, they are unwilling to understand the rights of the society which the State is bound to safeguard as against the rights of an individual. But if that principle is ever given a go by, then I am afraid, the trust which we have reposed in parliament in enacting article 31B and the Ninth Schedule would not have been properly utilised. I only hope that the criticism that I have levelled on enactment of 31B and the Ninth schedule will not be misunderstood by the Law Minister and that he will objectively evaluate and look into what we have stated in this matter. We are not against the principle. That principle is very salutary. I am only talking about the application of the principle:

Do not let it be an umbrella to shelter arbitrary, discriminatory and unconstitutional legislations, do not entrench them.

SHRI DHARNIDHAR DAS (Margadal):
I support the Constitution (Forty Second Amendment) Bill. I would like to confine myself particularly to Clause 3 of the Bill which provides for the amendment of the Ninth Schedule. This is the most timely amendment; rather, I am for more radical amendments of the Constitution. The process of radical amendments is going on at our party level and a national debate is taking place on having a Constitution that can enable the Parliament to represent the will of the people, and on having the will of the people reflected in the Constitution to fulfil our promise to the people which is clear to all, to bring about a socialist order of society in the country through a constitutional process.

Here, the Ninth Schedule has been used as a protecting shield, but it ought not to have been there, had the Constitution been so amended that it would have removed all the handicaps in the way of bringing about a socialist order of society. This parliament itself adopted socialist economy as the national goal in 1954 but it has not still found a place in the constitution; it is outside the Constitution. This calls for radical change in the Constitution. After the mid term elections when we got a massive mandate of Socialism from the people three important amendments to the Constitution, that is twenty fourth, twenty fifth and twenty sixth amendments, were put on the statute book. All these amendments were made because of the three judgements of the supreme Court supporting the vested interests. Here I would like to recall what happened in the French Revolution. One historian has written why such a blood shed, a terrible bloodshed, took place; I quote:

"The resistance of the Crown was transformed into the resistance

of the Court to defend the past Scheme of monarchy and to act as a dyke against the revolutionary changes in the country"

That revolution swept away not only feudalism, but also all institutions of monarchy that were acting against the common people.

Now, I would like to give my views on the proposed amendment to the Constitution that is before the House. We are saying all the time that the parliament must represent the will of the people. What is that will of the people? Let us ascertain it. Was it not reflected in the mid term election. The will of the people is to bring about socialism in the country and demolish the capitalist system completely. As far back as 1933 pandit Jawaharlal Nehru said that the agrarian system had already collapsed and a new form of society was already inevitable. He said that in 1933. Now, recently, in the last session, we had to enact laws to abolish bonded labour system, the consequence of the feudal land system, I would not like to take much time of the House in discussing the proposed amendment of the Ninth Schedule of the Constitution.

Since a radical amendment to the constitution to make it a socialist constitution is coming up and is around the corner, we will have another occasion for a debate on this. Here I would like to just give my strong support to this Constitution Amendment Bill. Some members referred to the different Acts. They have not gone through those Acts which are now sought to be protected by this Ninth Schedule. I know one Act mentioned here at serial No. 134, the Assam Fixation of Ceiling on Land Holdings Act, 1956. We are giving a target and our party particularly by 30th June to complete the distribution of surplus land and to get it done, we have to streamline the process of distribution and it is impossible unless this Act is taken out of the purview of the courts. In 1951 the Assam Zamindari Abolition Act was enacted but it was struck down by the High Court

[Shri Dhanraj Dixi]

Then, the amendment to the Constitution in 1951 only enabled the implementation of that Act.

Now, there is very little time left unless we move fast and take all the necessary measures to fulfil our ideological commitment to the people, history will not forgive us. We are talking of Bombay High modern sophisticated technology, etc., etc., but here, in our land, we have still one-fifth of our people in agriculture as landless peasants. Now, to end this feudal system of exploration and tyranny we have to take recourse to this Ninth Schedule. I am not bothered whether there may be some defect in this Act or that Act but it is a process to break the barriers created by the vested interests in the historical process of revolutionary changes and defeat their counter-revolution in the country. Many a judgement both of the High Courts as also of the Supreme Court defended the vested interests that plotted a fascist take-over of the Government through a counter-revolution in the country because of which in emergency had to be promulgated. That danger is not yet over.

So, it is a clear issue. It is a clash between two classes, between the vested interest and the reactionary forces on the one hand and the progressive forces and forces of socialism in the country on the other. So, there cannot be any hesitation in giving support to this Bill. Those who are on the side of progress should take this Bill as just the beginning of the revolutionary process of Constitutional changes to fight the forces of vested interests and right reaction. Rather more radical constitutional amendments are to be demanded and brought about.

With these words, I express my support to this Bill.

Shri K. Mayathevar (Dindigul): I support the Fortieth Amendment Bill of the Constitution because the Ninth Schedule in the Constitution is an enemy to the antisocial elements inside the country.

The Ninth Schedule and this Fortieth Amendment Bill are the arch enemy to all antisocial elements, the smugglers, the vested capital and big monopoly interests, the black-marketeers, profiteers, American agents and aristocratic elements. On the other side, this amending Bill is a friend to the poor, marginal and needy public in India. Therefore, I welcome this Amendment in a whole hearted manner.

In the first place we are amending Act, 297, Clause 1 of the Indian Constitution for various reasons, in the interest of the public at large. We are having about 1200 miles of territorial water jurisdiction on the High Seas. As per this amendment, we are going to extend the exclusive economic zone upto 200 miles. I would like to ask the hon. Minister of Law as to what is the position of this economic zone so far as Kachchathivu is concerned. Kachchathivu has been given to Sri Lanka Government. Previously, i.e., in the past, Kachchathivu was the property of Tamilnadu. It was the property belonging to Ramnad Raja who is my relative. Now Kachchathivu is the property of the Indian Government. What is the position regarding this 200 miles economic zone so far as Kachchathivu is concerned?

What is the position of the international law on this aspect? By amending Article 297 of the Constitution, extending the economic zone upto 200 miles on the High Seas, a legal lacuna is being created by which any other adjacent State can go to the International Court of Justice against this amendment. Therefore, I want the Government to be vigilant in this regard.

Regarding the land reform and land ceilings in Tamilnadu, we are now covering the so called land reforms and land ceilings which took place from the year 1970 to 31.1.76. What happened to the so called land reforms and land ceilings which were said-

to have taken place in Tamilnadu from 1954 to 1967, and from 1967 to 1970. Do you think that Rama or Harischandra were ruling Tamilnadu earlier?

Lakhs of acres of land have been sold by the big landlords in Tamilnadu. In Tanjore there is a landlord, I do not want to disclose his name, who is having 17000 acres of land now in spite of the so called implementation of the land reforms and land ceiling. What has happened to that land? Identical to that, there are so many thousands of landlords in Tamilnadu. There are surplus benami lands which are fraudulently transferred in the names of the interested parties. All this is illegal, anti-social and immoral. I want to say that all the lands which have been transferred from 1954 till 31-1-1976 should be looked into. There is sufficient surplus land—lakhs of acres—which can be supplied to the landless and coolies in Tamilnadu. I am, therefore, not happy and satisfied if you re-consider cases covered by the so-called land reforms from 1970 to 1986 only. I want the Government to go back still behind.

In Tamilnadu, in the name of Gods, in the name of temples, in the name of educational institutions, in the name of hospitals and benami, the lands have been transferred fraudulently. What action are you going to take against these transactions? You are absolutely silent on those things. We have given long rope to these fraudulent landlords. We must constitute village committees, taluk committees, district committees State level committees etc. giving representation to all parties and all public, to find out and investigate all these fraudulent transaction and benami transactions in Tamilnadu and also throughout India. There are thousands of cases pending before the Supreme Court and 17 High courts throughout India. What are you going to do about the immediate disposal of these cases?

I request the Law Minister to appoint more High Court Judges and Supreme Court Judges, and also more District Court

Judges. Delay defeats justice and law. You must declare all cases pending before the courts as infructuous relating to lands etc. Then only you can have the implementation of this Bill.

Regarding implementation of land ceiling laws and land reforms we are too slow.

We are too late also. We must do still more speedily. Then only we can satisfy the poor people who need lands for their living. Hungry people won't wait very long for your amendments. At least you should go speedily during this time of emergency. But even in emergency. I am sorry to say, we are sleeping. People will not tolerate you if you do not implement these laws quickly.

Regarding the Prevention and Publication of Objectionable Matters Act of 1976, in Tamilnadu, there are newspapers like Thennakam (Anna DMK's official organ), Makkal Kural (Voice of the People) Navamani and Thinamalar. These are supporting the 20 point programme of the Prime Minister Shrimati Indira Gandhi. They have welcomed the emergency and all the Central Government policies. 2 months back these newspapers were served with notices that they should not publish the speech of any Parliament Member in the papers, in spite of their support to the Government of India in their programmes. The so-called representative of you there in Tamilnadu has asked them not to publish these things. I request the Government to go into the matter and set this right. Your agent there has allowed the publication of statements of late Chief Minister Mr. Karunanidhi which were opposing your policies. I want to know whether the censorship agent in Tamilnadu is the agent of Mr. Karunanidhi for the Government of India.

Regarding the confiscation and forfeiture of properties of smugglers Mr. Seyid Muhammad made fine speeches and he made certain statements in the papers also which I welcome. Regarding confiscation of pro-

[Shri K. Moyotivas]

properties belonging to smugglers we should take stringent action, against fraudulent and benami transactions in the name of interested parties. They are having big houses, bungalows, cars, theatres, factories, and so on. All these things should be found out and their properties should be confiscated to the Government. We should take strict action against these anti-national and anti-social elements. With these words I conclude my speech.

श्री० कल्लास (बम्बई दक्षिण) : समापति जी, मैं कांस्टीट्यूशन अमेंडमेंट बिल का समर्थन करने के लिये खड़ा हुआ हूँ। पिछले बक्तानी को सुनने के बाद मुझे ऐसा लगने लगा कि माननीय सीधनाथ चटर्जी और माननीय इन्द्रजीत गुप्ता ने जो इस प्रकार का भ्रम या संशय अपने दिल में पैदा किया कि सरकार ने बिना सोचे समझे जो राज्य सरकारों के कानून हैं उन को नीवें शेड्यूल में डालने का प्रस्ताव प्रयत्न कर रही है, ऐसी बात नहीं है। मेरा निवेदन है कि है कि कोई भी रेस्पॉसिबिल सरकार जिस को यह मालूम है कि नीवें शेड्यूल में जाने के बाद उस पर टीका टिप्पणी की जा सकती है कि कोर्ट्स को उस में दखलंदाजी करने से अलग किया गया है, तो वह जरूर पूरे ध्यान से जितने भी राज्य के कानूनों को इस में रखे गये हैं, जिस में तमिलनाडू के कानून भी शामिल हैं, मैं कहूंगा उन की पूरी तरह जांच के बाद ही नीवें शेड्यूल की सूची में शामिल किया गया है। इस में कोई शक नहीं है कि हर सभासद का यह धर्म हो जाता है कि जहाँ भी उस की शंका हो उस की ओर सरकार का ध्यान खींचे और सरकार के लिए आवश्यक हो जाता है कि जो भी सभासद ने शक्यों उत्पन्न की हों उन का या तो उत्तर इस बक्ष दिया जाय और नहीं तो उसकी फिर से छान बीन कर के देखा जाय और नहीं तो कहीं ऐसा तो नहीं हुआ है कि

हम ने जल्दबाजी में कुछ ऐसा काम किया हो। लेकिन मैं जल्दबाजी इसलिये नहीं कह रहा हूँ क्योंकि पिछले कई सालों के अनुभव से भर्षात् जब से जमींदारी प्रवालीशन ऐक्ट आया तब से आज तक जो भी सरकार ने जमीनों के बंटवारे के कानून को चुनौती दी गई या उन व्यक्तियों ने जो जमीन को हड़प कर बैठे हैं उन्होंने उस कानून को रोकने का प्रयत्न कोर्ट्स में जाकर किया तो स्वाभाविक है कि कुछ ऐसी परेशानों केन्द्रीय सरकार को हुई है, राज्य सरकारों को हुई है, कि वह जो ममय नहीं लगना चाहिये था उस से कहीं ज्यादा समय लग गया है, और इस लिये आवश्यक हो गया केन्द्रीय सरकार के लिये कि ऐसे कानूनों को जो आर्थिक और सामाजिक न्याय जन साधारण को देते हैं उन्हें नीवें शेड्यूल में डाल दिया जाय।

मैं इस बात पर भी विचार कर रहा था कि हम ने समुद्र की सीमा तीन नामों में बांटी है—कान्स्टीनेंटल शेल्फ के नाम से, इकोनॉमिक टैरिटरी के नाम से, मरी-टाइम टैरिटरी के नाम से। उस पर मैं ऐसा मानता हूँ कि हमारे कानून मंत्री ने जब यह बिल इंट्रोड्यूस किया था तो वे यह बताते कि माननीय गोखलेसाहेब ने न्यूयार्क में जा कर क्या क्या बाने कीं, या इस की पृष्ठभूमि क्या है। ऐसा होने से हमारे सामने एक अच्छी तरह से चित्र आता और हम अपनी राय टीक प्रकार दे सकते थे। इस में कोई शक नहीं जब से हमारा देश विकास की ओर जा रहा है, तो उस विकास के लिये जो कुछ भी समुद्र की गर्भ में है उस पर भी हमें ध्यान रखना है। हमें अपनी रक्षा के लिए, अपनी सब-मैरीन्स के जाने की छूट तथा इस में देशों की सबमैरीन्स पर भी ध्यान रखना है, और इसलिए जितने लिट्टोरल कन्ट्रीज हैं, केवल भारत वर्ष ही नहीं, उन को अपने अपने क्षेत्र का पूरा ध्यान भषवा बंटवारे पर

ध्यान रखना पड़ेगा । और उस पृष्ठ-भूमि को बताने के लिए अगर ऐसा चित्र हमारे सामने रखा जाता तो बड़ा ही अच्छा होता । लेकिन फिर भी सरकार ने जो कुछ भी हमारे सामने एक चित्र रखा है कि हम किस प्रकार भ्रष्टाचार की सीमा को बांधने जा रहे हैं, या और किस तरीके से इस अंतर्राष्ट्रीय प्रश्न पर आगे बढ़ रहे हैं, तो मैं ऐसा मानता हूँ कि केन्द्रीय सरकार ने उस दृष्टिकोण को, उस पृष्ठ-भूमि को ही ध्यान में रखते हुए इस कानून को भी कांस्टीट्यूशन के अमेन्डमेंट के द्वारा पक्का कर देना चाहते हैं कि जिस से जो कुछ आज तक हम ने निर्धारित किया है या जो देश के हित में ठीक समझा है, उस को हम ठीकरे रख सकें । अगर इस में भविष्य में कुछ भी रद्दोबदल करने की जरूरत इंटरनेशनल रिपरकेशन के कारण या देश के हित के दृष्टिकोण से ऐसी बात आयी तो कानून मंत्री फिर सदन के सामने आ कर अमेन्डमेंट पेश कर सकेंगे ।

इन शब्दों के साथ जो बिल लाया गया है, मैं उस का पूर्णतया समर्थन करता हूँ और प्रस्ताव करता हूँ कि श्री सोमनाथ चटर्जी और श्री इन्द्रजीत गुप्त, यद्यपि उन्होंने उसके अंदर संशय प्रकट किया है, लेकिन वे भी उसका पूर्णतया समर्थन करेंगे । उन्होंने प्रीवेंशन आफ फब्रिकेशन आफ फ्रॉडजनरेवल मैटर ऐक्ट को नवें शब्दों में डालने पर आपत्ति की है । मैं निवेदन करना चाहता हूँ कि देश में ऐसी हासत पैदा हो गये थे कि कुछ अच्छे वाले लेखक और कई अन्य व्यक्ति गैर-जिम्मेदारी से काम कर रहे थे और अच्छे लोगों में वे आपत्तिजनक बातें छपवा कर सारे देश में भ्रम पैदा करना चाहते थे, उन लोगों की गतिविधियों को रोकने के लिये जो कानून पास किया गया है, उस को प्रभावशाली में चुनौती न दी सके, इस दृष्टि से उन को नान्वय शब्दों में रख दिया गया है । क्या हम नहीं चाहते

कि इस प्रकार का वातावरण कभी न आये । हमारे कुछ साथी देश का जला चाहते हुए भी और देश के हक में बोलते हुए भी देश के विरुद्ध काम करते हैं और उस मकसद के लिये अच्छे लोगों का उपयोग करते थे । उन अच्छे लोगों के विरुद्ध कार्यवाही करने के लिये इस कानून को बनाये रखना अत्यन्त आवश्यक है जिस से भविष्य में कभी ऐसा वातावरण न बन सके । इसीलिये इसको नवें शब्दों में रख दिया गया है । जिसका विरोध विरोध पक्ष के साथियों को नहीं करना चाहिये क्योंकि वे नहीं चाहते कि देश में भ्रष्टाचार हो ।

इन शब्दों के साथ मैं भी आज का विधेयक का समर्थन करता हूँ ।

THE [MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD): Mr. Speaker, Sir, before I reply in detail to the various points raised regarding the merits of the amendment, I very much like to say one thing very clearly and unequivocally:

A large number of hon. Members from both sides of the House made a grievance that the mode of bringing the amendment was not satisfactory. The grievance was that a large number of amendments—sixty three in number—are proposed to be put in the Ninth Schedule and they have never seen those enactments. Neither they got the opportunity to see those enactments nor did they get the substance of those enactments or the reason as to why they are attempted to be put in the Ninth Schedule.

Sir, I fully appreciate this criticism and with great concern I wish to say that it was not with an intention of deliberately withholding any thing back from the House or to show any indecent hurry in bringing these amendments. What happened was since the first Constitutional amendment in 1951 a procedure—I may better call

[Dr. V.A. Seyid Muhammad] a practice has—been in vogue namely, that a certain number of copies of the proposed enactments will be supplied to the Lok Sabha Secretariat who will hand them over to the Library where they can be examined and studied by those hon. Members who are interested in studying them. We thought since about 25 years have lapsed without any objection being raised to that procedure..

SHRI K. NARAYANA RAO : During the Seventeenth amendment the enactments which had been included in the Ninth Schedule had been bodily published and circulated to the hon. Members twice

DR. V. A. SEYID MUHAMMAD: thank you, for the information. It has not been brought to my notice, to that extent my statement stands qualified. As I was submitting, it was not with an intention of showing any disrespect to the House or withholding anything from the House or showing any indecent hurry but it is because of the practice that we had done so. I say to you, Sir, that whatever directions you give in this regard regarding the future procedure of bringing this amendment and producing the enactments, we shall abide by that.

Sir, a large number of Members who participated in the discussion from both sides have raised very important and serious points - Mr. Indrajit Gupta, Mr. Chatterjee and various others Members from the other side of the House and Mr. Stephen, Shri Naik, Mr. Salve and other Members on this side of the House. By not mentioning other names, I do not mean any disrespect or make invidious distinction. I do not want to multiply the names, that is all. One of the points raised is that the Ministry or the Minister who brought forward this Bill did not give sufficient information about the negotiations which were going on in the UN and in the various Law to Sea Conferences. I thought that I should not, for this purpose bring in the details here. But if Members want, I shall give the salient features of the present position in the International

Law. I will say things on which there are consensus. I do not want to deal with the various controversies and the shifting of the positions and subtleties of the arguments. I will shortly state the position where there is a substantial consensus as at present. Regarding the territorial waters, that will extend to 12 miles. There is a general consensus. Regarding the exclusive zone of 200 miles, there is a consensus, regarding the continental shelf, it will extend to 200 miles and if the continental shelf goes beyond 200 miles it will be at the edge of continental shelf and that is the position and that has been accepted as one of the terms in the single negotiated text. Now, having said that, I may mention what exactly is exclusive economic zone. Exclusive economic zone is an area of 200 miles from the base line or 188 miles from the territorial waters where the concerned littoral states will have special jurisdiction to exploit the natural resources. If it is accepted the treaty is accepted, that will be the International Law as accepted universally. Now, that is where you can exploit the natural resources for your developmental purposes, where even the ships of other countries will have the right to pass through and that passage should not in any way interfere with the littoral countries economic activities. So, that is the position and I do not wish to elaborate it because I thought that that was what precisely most of the Members wanted. The nature of the three zones was : territorial waters, exclusive economic zone and the continental shelf. I hope that I have given in short the explanation of the salient features involved International field. Now, the proposed Amendment is only an enabling provision. It does not purport to make an enactment or it is not a binding law. It enables the Parliament to pass certain laws regarding the matters 1.2.3. and so on. Now in this Context.

Mr. Salve mentioned about the dangers that is, about ship coming and interfering in the economic activities, whether it is in the Sea bed or in the territorial water or

in the economic zone. So far as the territorial waters are concerned, it is well covered by the existing international law. But for the other two, it is hoped that adequate laws will be provided to cover those areas at the appropriate time. I am glad that in this respect. Members like Mr. Salve have pointed out the tenuous aspects about which we have to be careful and I am sure and when Government passes this legislation, all these points which have been raised will be taken into account and necessary Provisions made accordingly.

I do not propose to deal with the first part about article 297. I will immediately pass over to article 31 B. dealing with the introduction of various enactments in the ninth schedule. I want to make the two things clear, which have been raised. Firstly it does not confine the power of including enactments in the ninth schedule only to agrarian reforms, the question was raised and it has been decided by the Supreme Court that it is not confined to agrarian reforms. Even before, by the fourth amendment, we put in items 17, 18, and 19 which had nothing to do with agrarian reforms. By the 39th amendment, we put in items 87 to 105 which were non-agrarian reform legislations.

SHRI SOMNATH CHATTERJEE : Do you say that the fourth amendment did not relate to agrarian reforms ?

Dr. V. A. SEYID MUHAMMAD : I specifically said that items 17, 18 and 19 had nothing to do with agrarian reforms. The rest of the items were agrarian reforms.

Who said they are not ? I have given examples of the fourth amendment and 39th amendment and the court has accepted that it is not confined to agrarian reforms alone.

Mr Indrajit Gupta raised the point about pending cases. We have not given retrospective effect to this, but it has been interpreted and accepted that having regard to the wordings of article 31B, it has in fact retrospective effect. The wordings

in this article like "nor many of the provisions there of shall be deemed to be void or ever to have become void". "notwithstanding any judgment, decree, or order of any city court" etc. These expressions have been interpreted to mean, that even pending cases will be covered and in fact it has retrospective effect. So, we have not specifically said that it will have retrospective effect.

I am thankful to the members because almost all of them supported the amendment, though some did it with some reservations.

SHRI SOMNATH CHATTERJEE : The statement of objects and reasons says that these are progressive legislations. What about that ?

Dr. V. A. S. SEYID MUHAMMAD : I will certainly refer to the expression use in the statement of objects and reasons and justify what we have done. Apart from the criticisms I have replied to, one criticism was that this Bill seeks to put in a huge number of enactments together at the same time in the ninth schedule.

Secondly, three enactments are being objected to, i.e. Items 125-130 and 133 - Motor Vehicles Act, 1939, Prevention of Publication of objectionable Matter Act 1976 and Departmentalisation of Union Accounts Act, 1976. Before I refer to them, may I read the portion which is relevant from the objects & Reasons of the Enactment. This is paragraph 2 of the Statement of objects and Reasons.

"Recourse was had in the past to the Ninth Schedule whenever it was found that progressive legislation conceived in the interest of the public was improved by litigation".

When was it resorted to ? when Enactments of public interest were imperilled. Whatever may be your individual conception or standard and taste whether a particular legislation is progressive or not. I would not make a quarrel about it. What I say is

[Dr. V.A. Seyid Muhammad]

that these Enactments are in the public interest. According to you, what is progressive legislation. I am not concerned with that. The individual Philosophy and the political philosophy of a Member regarding what is progressive and what is not progressive. I am not going to make a quarrel. Having said that, Whether it is in the public interest, that is what I have to show (*interruptions*) Throwing words will not change the situation.

Coming to first, i.e. Motors Vehicles Act, Chapter 4A that is the main section, deals with nationalisation of transport. Nationalisation of transport is a matter of public interest and we apprehend that unless it is put in the Ninth Schedule, the nationalisation may be in jeopardy. That is precisely what the Statement of objects and Reasons says that in the public interest we have done so and we will do so. Now, the question is whether litigations were pending and why that apprehension was there. 32 writ petitions under Chapter 4A are pending in Allahabad High Court, we have one in Madras and there are others in Punjab, Bombay, Kerala etc. So, our apprehension that it will be in jeopardy, unless we put it in the Ninth Schedule is fully justified, because the nationalization of state transport is in public interest. I think I have made it sufficiently clear that we have a justification.

SHRI G. VISWANATHAN : What is the justification for Section 66A?

DR. V. A. SEYID MUHAMMAD : If you specifically want the reply, I would say that it has been found that these booking agencies were there not only for the tickets, but also for the transportation of goods. They were really creating monopolies and obstructions in the matter. We wanted to organize and control them by giving licences and putting them under certain rules. That is why it is important.

Now, I come to the next question, viz, entry 130, regarding the Prevention of Publication of Objectionable Matter Act, 1976 (Central Act 27 of 1976). This Act was discussed fully here. Many had objections at that time. I can understand the objections. But basically, it wants to, Control the liberties under Article 19 i.e. to have reasonable control, as we had explained. And it is quite possible that in regard to the extent of reasonableness, you may differ. You may think that it is not reasonable. We think that it is reasonable. When it came up for passage in this House, every comma and full stop was discussed. I do not want to go into it again. But that Act is there. It has been passed and we feel, as I have said, that it is in the public interest. You may have a difference of opinion. That is the test we have applied in putting it in the Ninth Schedule. It is in public interest, viz, it is there to prevent certain undemocratic practices.

SHRI DINEN BHATTACHARYYA : Is it a progressive legislation?

DR. V. A. SEYID MUHAMMAD : Yes; it is in the public interest and it is a progressive legislation. Progressive legislations, as you know, are of two kinds, positive and negative; negative in the sense of preventing certain anti-democratic forces from operating. That is also progressive. It is in that sense that it is progressive. It is in the public interest. Therefore, it is in public interest and it is progressive; it is both. (*Interruptions*) Whatever may be your personal objection to it, that is how we have conceived of it. That is how we want to get the operation of that Act. And if there is any possibility of its being nullified, we want to guard against it, by utilizing the constitutional provisions and the mandate given to us.

Thirdly, about entry 133 which pertains to the Departmentalisation of Union Accounts (Transfer of personnel Act, 1976 (Central Act 59 of 1976) I do not know

how on earth anybody can say that it has nothing to do with public interest. The whole job of the economy and finances lies in controlling and managing the Union Accounts. And it deals with the machinery which is directly concerned with the management of economy of the finances of the country, and with rationalizing it. I do not know how anybody can say that it is not in public interest.

Having said that, and having disposed of so, to say, the main objections raised, I am proceeding with some of the other points.

17.00 hrs.

There is one question which has been raised by Mr. Stephen and others about Articles 14 and 19, as far as emergency is concerned. To that question my reply is three-fold. (1) The constitutional amendment is not intended only for the period of emergency it will continue even after the emergency. So, in view of a particular situation during the emergency, we cannot forget the fact that the amendment will have force even after the emergency. Secondly, Mr. Goswami and Mr. Naik were pointing out that a large number of petitions had been filed and stay orders had been obtained, and as a result of emergency and the provisions of Article 358-359, they are kept pending and nothing can be done. Thirdly, I may mention and it may be known to persons like Mr. Chatterjee and others who have been practising in the courts of law that such a situation should not arise. Apart from the violation of the fundamental rights, there is a decision of the Supreme Court in writing about a petition which is amorphous, indefensible and inconceivable. I am told that certain High Courts have granted a stay orders. Since Articles 14-19, are suspended, one may go tomorrow to a court and say, "This violates the basic structure. Give us a stay order." So, for that reason, we have to guard against the possibility of nullifying the effect of this

Act. For three reasons. It is absolute, necessary, whether there is an emergency or not that we have to bring in this legislation. I do not propose to take much of your time. I am grateful to the hon. Members. I want to express my gratitude again to the Members who have participated and suggested many important points, particularly in the matter of Article 297 amendment.

With these words, I commend the Bill for the consideration of the House.

SHRI G. VISWANATHAN : There is one problem (Interruptions) Once this Bill becomes an Act, unless a Law is passed by parliament, who will determine the territorial waters ? Once this Bill becomes an Act, will this enactment alone determine the territorial waters. The Presidential proclamations which are operating now will cease to exist. What will be the legal position ? Who will determine the territorial waters when this Bill becomes an Act ? There will be no enactment of Parliament on that day ?

DR. V.A. SEYID MUHAMMAD : I am sorry. I could not catch the Member. What exactly he wants to ask.

SHRI G. VISWANATHAN : If the present Bill becomes an act, who will determine the territorial waters, economic zone, etc. The Presidential proclamations will cease to operate. Will there not be a vacuum in that place unless Parliament passes an act immediately ?

(Interruptions)

DR. V. A. SEYID MUHAMMAD : There have been proclamations (Interruptions) By enacting this, the sovereign power of Parliament to pass other laws will not be affected.

MR. CHAIRMAN : In view of the demand

(Interruptions)

SHRI INDRAJIT GUPTA : I do not understand the point of law. May I just once again get it confirmed from the Minister whether in his view in his interpretation, the passing of this Bill will mean and mean nothing else except that all pending injunctions, a day orders and proceedings in the various courts in terms of these various legislations will be rendered infructuous?

(Interruptions)

DR. V. A. SEYID MUHAMMAD : No, no, they will continue. That is not happening. You kindly see Article 356 in this respect. If you want, I can give you the exact wording.

That is our complaint also. This is what I was telling Mr. Goswami that in spite of Emergency, a large number of petitions have been filed and stay-orders given. They are kept pending.

SHRI INDRAJIT GUPTA : Why can't you make a special provision for that?

DR. V. A. SEYID MUHAMMAD : That is another suggestion.

MR. SPEAKER : The question raised by the hon. Member is, after the enactment, of this measure, whether it will have a retrospective effect.

SHRI INDRAJIT GUPTA : My question is this. The Statement of Objects and Reasons says that in view of judicial intervention, a larger number of these writs have been issued, stay-orders have been given and injunctions are pending; that this is holding up the work of land reforms and other economic reforms and, therefore, it is necessary to pass this Bill. This means, at least it implies to anybody with common-sense, that the effect of the legislation should be to remove that impediment, to remove that obstacle. But the Minister says, not that is not the meaning of it. Then, I would like to know what is the utility of passing his legislation.

DR. V. A. SEYID MUHAMMAD : Putting these Acts in the Ninth Schedule gives protection to the Acts. But you are referring to matters which are already pending in the courts.

SHRI INDRAJIT GUPTA : About 6 lakh cases are pending, only on land reforms issue.

DR. V. A. SEYID MUHAMMAD : By virtue of article 359, they will continue to remain pending; They cannot be disposed of by this. That is the position.

SHRI INDRAJIT GUPTA : What is the use of passing this legislation then?

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH) : May I with due respect, Sir, clarify the position?

(Interruptions)

AN HON. MEMBER : How can he?

SHRI K. RAGHU RAMAIAH : I am a member of this House.

Once the Constitution is amended and certain laws are included in the Ninth Schedule, any injunction which was given by any court at a time when they were not in the Ninth Schedule and which would not have been given if they were in the Ninth Schedule then, will have to be vacated.

SHRI SOMNATH CHATTERJEE : No, no. *(Interruptions)*.

SHRI K. RAGHU RAMAIAH : That is my view.

SHRI INDRAJIT GUPTA : He is contradicting what the Law Minister says. Please speak with a single voice.

SHRI K. RAGHU RAMAIAH : The only thing is that a formal application has to be made to the court.

SHRI INDRAJIT GUPTA : The Government should speak with a single voice and not confuse the House and the public at large.

SHRI H. N. MUKERJEE (Calcutta—North-East) : Sir, The Minister who sponsored this Bill and is replying to the debate must give the House a positive indication as to the interpretation and the effect of the provisions of this Bill. How can we take the word of the Minister of Parliamentary Affairs who may be a legal wizard? We want the Law Minister himself speaking on this occasion on behalf of the cabinet to re-assure the House. Otherwise, there is no point in passing this Bill. You cannot put it to the vote of the House. You have permitted this question to be asked. It is not being answered by the Law Minister. The Law Minister does not even listen. He is a stranger to the House; he is a stranger to the procedure of the House. He does not even listen. Here is the former speaker sitting by his side. He is watching the whole procedure with great amusement.

My submission to you is, whosoever is deputising for the Law Minister, the Minister over there replying to the debate must give a re-assurance to this House in regard to the point raised. Anything said by any of his colleagues, whether the Minister of Parliamentary Affairs or anybody else does not pass muster.

SHRI SOMNATH CHATTERJEE : Mr. Indrajit Gupta has raised a very important point. The effect of including an Act in the Ninth Schedule is that the validity of the Act or the *Vires* cannot be challenged as being contrary to the provisions of part III of the Constitution, it cannot be declared *ultra vires* on that ground. Only in the cases of those writ petitions where the *vires* of the Act has been challenged, the petitions will not be maintainable and the injunctions will have to be vacated. But there are thousands of writ petitions where the validity of the legislation has not been challenged but where the executive actions have been challenged. To those

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cases, the Ninth Schedule does not give any protection. What has the Minister to say to this?

DR. V. A. SEYID MUHAMMAD : This question was raised by the various Advocates-General as to what would happen to the stay orders which have been given under the Emergency. Six of the Advocates-General and myself discussed the matter, and the consensus was that the stay could not be vacated until the Emergency was over. That is the opinion.

SHRI INDRAJIT GUPTA : I do not know why he is referring particularly to Emergency. Have stay orders been given Emergency? There are over six lakh stay orders, according to Mr. Jagjivan Ram's statement which I have quoted. Before we give our opinion, we have to know clearly what we are in for. I am very sorry, even at this stage of the proceedings, the Prime Minister, for some reason, is not here. This is a very important point. The House is being asked to amend the Constitution. We must know whether the effect of this Bill will be to remove the legal impediments which have come in the way of carrying out the land reforms due to the intervention of the courts, and if the answer is 'no', then it is not worth the paper it is written on.

DR. V. A. SEYID MUHAMMAD : May I read article 359 of the Constitution?

"Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by part III as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order."

SHRI C. M. STEPHEN : I suppose, the point raised is something which demands an explanation and answer. Mr. Indrajit Gupta has raised a question, and the question, I am afraid, is being misunderstood. The question is this. There are certain laws, the *vires* of which has been challenged and on the basis of that, injunctions have been issued against certain actions of the Government or proceedings under the Act. Now that those Acts are being made immune from attack on the basis of violation of the Constitutional Provisions under Part III, the question is whether those injunctions and stay orders get vacated as a result of this or whether they will still continue in spite of the fact that we have passed this Bill. Now the reply given by the Minister reading out article 359 is no answer to that. Article 359 says that any proceeding seeking enforcement of this particular Article which under the Emergency has been suspended, will remain suspended. That is not what has been asked. What has been asked is whether the stay orders issued by the courts under certain Acts which are now being protected will get vacated, as they have now become valid under the Ninth Schedule, automatically or not, or, whether this enactment will get a retrospective operation making those stay orders invalidated. The first question is whether automatically they will be invalidated and the second question is whether Government will move to get them invalidated because these Acts have now been brought under article 31B.

It is to this question that a reply is asked for. Article 359 is no answer to this question.

SHRI K. NARAYANA RAO : The objective of this amendment is not to do anything with stay orders or things like that..... (Interruptions)

MR. SPEAKER : Let the Minister answer this question ; you should not answer.

SHRI DINESH CHANDRA GO-SWAMI : I would like to know from the Minister one point. In some cases today, the *vires* of these Acts has been challenged and courts have granted stay orders. After we have passed this Constitutional Amendment Bill, will the Government go to the courts and point out through their Advocates-General that now that these Bills have been put in the Ninth Schedule and by deeming provisions, these cannot be challenged on the ground of being void and on that ground, will the Government ask for vacation of the stay orders ? If the Government has that power to ask for vacation of the stay orders and if a request is made, what do you feel will be the order of the court ? ... (Interruptions)

DR. V.A. SEYID MUHAMMAD : In order to get the stay vacated, the state will have to go and move before the court that as this amendment has been passed and the Act has been put under the Ninth Schedule, the stay order must be vacated. That will be a matter of proceeding. All Proceedings before the court are suspended. Without the proceedings before the court, how can a stay order be vacated ? (Interruptions)

MR. SPEAKER : But the question still remains, what will happen after the emergency.

It is a matter of procedure. About additions to the Ninth Schedule, there were complaints and concern expressed by many hon. Members from all sides that full information was not available. I would suggest that the Minister should prepare a statement and lay it on the Table of the House for circulation to Members, giving the gist of the entries added to the Ninth Schedule and the reasons for their inclusion.

So far as future is concerned, they must evolve a procedure that full information about the additions to the Ninth Schedule should be made available to the hon. Members.

SHRI BHAGWAT JHA AZAD :
(Bhagalpur) : Like the Motor Vehicles Act.

MR. SPEAKER : I shall now put amendment No. 7 moved by Shri Dinen Bhattacharyya for circulation of the Bill for eliciting opinion. Though it does not require a special majority, I will put it to the vote of the House.

Now the question is :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 16th August, 1976." (7)

The motion was Negatived.

MR. SPEAKER : Before I put the motion for consideration to the vote of the House, this being a Constitution (Amendment) Bill, voting has to be by Division.

Let the Lobbies be cleared.

The Question is :

"That the Bill further to amend the Constitution of India be taken into consideration."

Now, Division.

The Lok Sabha Divided:

Division No. 13]

[17.28 hrs.

AYES

Achal Singh, Shri
Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Ahrwar, Shri Nathu Ram
Alagesan, Shri O.V.
Anand Singh, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Austin, Dr. Henry
Awdheah Chandra Singh, Shri

Azad, Shri Bhagwat Jha
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishnaiah, Shri T.
Banamal Babu, Shri
Banerjee, Shri S.M.
Banerjee, Shrimati Mukul
Barman, Shri R.N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S.C.
Bhagat, Shri H.K.L.
Bhargava, Shri Basheshwar Nath
Bhargavi Thankappan, Shrimati
Bhatia, Shri Raghunandan Lal
Bhattacharyya, Shri Chapalendu
Bhaura, Shri B.S.
Bheeshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Gowda, Shri D.B.
Chandra Shekhar Singh, Shri
Chandrakar, Shri Chandulal
Chandrapan, Shri C.K.
Chandrashekharaappa Veerabasappa, Shri T.V
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chava, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chavda, Shri K.S.
Chellachami, Shri A.M.
Chhotey Lal, Shri
Chhutten Lal, Shri

Chikkalingaiah, Shri K.
 Choudhary, Shri B.E.
 Daga, Shri M.C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S.R.
 Darbara Singh, Shri
 Das, Shri Anadi Charan
 Das, Shri Dharnidhar
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B.K.
 Deo, Shri S.N. Singh
 Desai, Shri D.D.
 Deshmukh, Shri K.G.
 Dhamankar, Shri
 Dharamraj Singh, Shri
 Dhillion, Dr. G.S.
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G.C.
 Dixit, Shri Jagdish Chandra
 Dube, Shri J.P.
 Dumada, Shri L.K.
 Dwivedi, Shri Nageshwar
 Engti, Shri Biren
 Gaekwad, Shri Fatesingh Rao
 Gandhi, Shrimati Indira
 Ganesh, Shri K.R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Gautam, Shri C.D.
 George, Shri A.C.
 Ghosh, Shri P.K.
 Gill, Shri Mohinder Singh
 Giri, Shri S.B.
 Godara, Shri Mani Ram
 Godfrey, Shrimati M.
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gomango, Shri Girdhar

Goswami, Shri Dinesh Chandra
 Gowda, Shri Pampa
 Gupta, Shri Indrajit
 Hansda, Shri Subodh
 Hari Singh, Shri
 Hashim, Shri M.M.
 Jadeja, Shri D.P.
 Jaffer Sharief, Shri C.K.
 Jamilurrahman, Shri Md.
 Jeyalakshmi, Shrimati V.
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jharkhande Rai, Shri
 Jitendra Prasad, Shri
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J.G.
 Kadannappalli, Shri Ramachandran
 Kader, Shri S.A.
 Kahandole, Shri Z.M.
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kamakshaiah, Shri D.
 Kamala Prasad, Shri
 Kamble, Shri T.D.
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B.R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R.K.
 Khan, Shri I. H.
 Kinder Lal Shri
 Kisku, Shri A.K.
 Kotaki, Shri Liladhar
 Kotrashetti, Shri A.K.
 Krishnan, Shri G.Y.
 Krishnan, Shrimati Parvathi

Krishnappa, Shri M.V.
 Kulkarni, Shri Raja
 Kureel, Shri B.N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshminarayanan, Shri M.R.
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram
 Mahajan, Shri Y.S.
 Maharaj Singh, Shri
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K.D.
 Malhotra, Shri Inder J.
 Mallanna, Shri K.
 Mandal, Shri Jagdish Narain
 Mandal, Shri Yamuna Prasad
 Manhar, Shri Bahagatram
 Mayathevar, Shri K.
 Mehta, Dr. Mahipatray
 Melkote, Dr. G.S.
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bibhuti
 Mishra, Shri G.S.
 Mishra, Shri Jagannath
 Mohammad Tahir, Shri
 Mohan Swarup, Shri
 Mohapatra, Shri Shyam Sunder
 Mohsin, Shri F.H.
 Mukerjee, Shri H.N.
 Munsi, Shri Priyaranjan Das
 Murmu, Shri Yogesh Chandra
 Nahata, Shri Amrit
 Naik, Shri B.V.
 Nair, Shri B.V.
 Nair, Shri Sreekanthan
 Nanda, Shri G.L.
 Negi, Shri Pratap Singh

Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri Manikrao
 Pandey, Shri Damodar
 Pandey, Shri Krishna Chandra
 Pandey, Shri Narsingh Narain
 Pandey, Shri R.S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Pandit, Shri S.T.J.
 Panigrahi, Shri Chintamani
 Pant, Shri K.C.
 Paokai Haokip, Shri
 Parashar, Prof. Narai Chand
 Parikh, Shri Rasiklal
 Parthasarathy, Shri P.
 Paswan, Shri Ram Bhagat
 Patel, Shri Arvind M.
 Patel, Shri Natwarlal
 Patel, Shri Prabhudas
 Patel, Shri R.R.
 Patil, Shri Anantrao
 Patil, Shri C.A.
 Patil, Shri E.V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S.B.
 Patil, Shri T.A.
 Patnaik, Shri Banamali
 Patnaik, Shri J.B.
 Peje, Shri S. L.
 Prabodh Chandra, Shri
 Pradhan, Shri Dhan Shah
 Pradhani, Shri K.
 Raghu Ramaiah, Shri K.
 Rai, Shri S.K.
 Raj Bahadur, Shri

Rajdeo Singh, Shr	Salve, Shri N.K.P.
Raju, Shri P.V.G.	Samanta, Shri S.C.
Ram Dayal, Shri	Sambhali, Shri Ishaque
Ram Hedao, Shri	Sanghi, Shri N.K.
Ram Prakash, Shri	Sankata Prasad, Dr.
Ram Sewak, Ch.	Sant Bux Singh, Shri
Ram Singh Bhai, Shri	Sarkar, Shri Sakti Kumar
Ram Surat Prasad, Shri	Sathe, Shri Vasant
Ram Swarup, Shri	Satish Chandra, Shri
Ramji Ram, Shri	Satpathy, Shri Devendra
Ramahekhar Prasad Singh, Shri	Savant, Shri Shankarrao
Ranabhadur Singh, Shri	Savitri Shyam, Shrimati
Rao, Shri Jagannath	Sayeed, Shri P.M.
Rao, Dr. K.L.	Shafec, Shri A.
Rao, Shri K. Narayana	Shafquat Jung, Shri
Rao, Shri M.S. Sanjeevi	Shahnawaz Khan, Shri
Rao, Shri M. Satyanarayan	Shallani, Shri Chandra
Rao, Shri Nageswara	Shambhu Nath, Shri
Rao, Shri P. Ankineedu Prasad	Shankar Dayal Singh, Shri
Rao, Shri Pattabhi Rama	Shankar Dev, Shri
Rao, Shri Rajagopala	Shankaranand, Shri B.
Rathia, Shri Umed Singh	Sharma, Shri A.P.
Raut, Shri Bhola	Sharma, Dr. H. P.
Ray, Shrimati Maya	Sharma, Shri Madhoram
Reddi, Shri P. Antony	Sharma, Shri Nawal Kishore
Reddy, Shri K. Kodanda Rami	Sharma, Shri R.N.
Reddy, Shri K. Ramakrishna	Shastri, Shri Biswanarayan
Reddy, Shri M. Ram Gopal	Shastri, Shri Raja Ram
Reddy, Shri P. Bayapa	*Shastri, Shri Ramavatar
Reddy, Shri P. Narasimha	Shinde, Shri Annasaheb P.
Reddy, Shri P.V.	Shivappa, Shri N.
Reddy, Shri Sidram	Shukla, Shri B.R.
Reddy, Shri Y. Eswara	Shukla, Shri Vidya Charan
Ruchharya, Dr. Govind Das	Siddayya, Shri S.M.
Roy, Shri Bishwanath	Siddheshwar Prasad, Prof.
Saini, Shri Mulki Raj	Sinha, Shri Dharam Bir
Sait, Shri Ebrahim Suleiman	Sinha, Shri Nawal Kishore

*Voted by mistake from a wrong seat and later informed the speaker accordingly.

Sinha, Shri R.K.
 Sohan Lal, Shri T.
 Sokhi, Sardar Swaran Singh
 Somasundaram, Shri S.D.]
 Stephen, Shri C.M.
 Subramaniam, Shri C.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R.V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Tarodekar, Shri V.B.
 Tayyab Hussain, Shri
 Tewari, Shri Shankar
 Thakur, Shri Krishnarao
 Tiwary, Shri D.N.
 Tombi Singh, Shri N.
 Tulsiram, Shri V.
 Uikey, Shri M.G.
 Unnikrishnan, Shri K.P.
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyalkar, Shri Amarnath
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri
 Viswanathan Shri G.
 Yadav, Shri Chandrajit
 Yadav, Shri D.P.
 Yadav, Shri Karan Singh

Yadav, Shri N.P.
 Yadav, Shri R.P.
 Zulfiqar Ali Khan, Shri

NOES

Chowhan, Shri Bharat Singh
 Patel, Shri Namubhai N.
 *Shetty, Shri K.K.

MR. SPEAKER : The result **of the division is :

Ayes : 320 ; Noes : 3.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The motion was adopted.

MR. SPEAKER: Now we shall take up the clauses.

Clause 2 (*Substitution of new article for article 297*)

MR. SPEAKER : There are some amendments. Are Shri K. Narayana Rao and Shri B. V. Naik moving the amendments?

SHRI K. NARAYANA RAO: I am not moving my amendment.

SHRI B.V. NAIK: I am not moving my amendment.

MR. SPEAKER: So, there are no amendments.

I shall put clause 2 to the vote of the House.

This requires a special majority. The doors are already closed.

The question is:

*Wrongly voted for NOES.

**The following Members also recorded their votes for AYES :—

Sarvaswari B. Satyanarayana, Sheopujan Shastri, Aziz Imam, Genda Singh and K.K. Shetty.

"That Clause 2 stand part of the Bill".
Now, Division.

The Lok Sabha divided:

Division No. 14] [17.30 hrs.

AYES

Achal Singh, Shri
Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O.B.
Anand Singh, Shri
Ansari, Shri Ziaur Rahman
Appalendu, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishnaiah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S.M.
Banerjee, Shrimati Mukul
Barman, Shri R.N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri. K.
Basumatari, Shri D.
Beera, Shri S.C.
Bhagat, Shri H.K.L.
Bhargava, Shri Bhasheshwar Nath
Bhargavi Thankappan, Shrimati
Bhatia, Shri Raghunandan Lal
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri S.P.
Bhattacharyya, Shri Chapalendu
Bhaura, Shri B.S.
Bheeshmadev, Shri M.
Bhuvrahan, Shri G.
Bis, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Gowda, Shri D.B.
Chandra Shekhar Singh, Shri
Chandrakar, Shri Chandulal
Chandrappan, Shri C.K.
Chandrashekharaappa Veerabasappa, Shri T.V.

Chatterjee, Shri Somnath
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chavda, Shri K.S.
Chellachami, Shri A.M.
Chhotey Lal, Shri
Chhuttan Lal, Shri
Choudhary, Shri B.E.
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S.R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulaidas
Daschowdhury, Shri B.K.
Deb, Shri Dasaratha
Deo, Shri S. N. Singh
Desai, Shri D.D.
Deshmukh Shri K.G.
Dhamankar, Shri
Dharamraj Singh, Shri
Dhillon, Dr. G.S.
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G.C.
Dixit, Shri Jagdish Chandra
Dube, Shri J.P.
Dumada, Shri L.K.
Dutta, Shri Biren
Dwivedi, Shri Nageshwar
Engti, Shri Biran
Gaekwad, Shri Fatesingharao
Gandhi, Shrimati Indira
Ganesh, Shri K.R.
Ganga Devi, Shrimati
Gangadeb, Shri P.
Gautam, Shri C.D.
George, Shri A.C.
Ghosh, Shri P.K.
Gill, Shri Mohinder Singh
Giri, Shri S.B.
Godara, Shri Mani Ram
Godfrey, Shrimati M.
Gogoi, Shri Tarun
Gohain, Shri C.C.
Gomango, Shri Giridhar
Goswami, Shrimati Bibha Ghosh

Goswami, Shri Dinesh Chandra
 Gowda, Shri Pampan
 Gupta, Shri Indrajit
 Halder, Shri Md'h'uryya
 Halder, Shri Kritisna Chandra
 Hanada, Shri Subodh
 Hari Singh, Shri
 Hashim, Shri M.M.
 Hazra, Shri Manoranjan
 Jadeja, Shri D.P.
 Jaffer Sharief, Shri C.K.
 Jamilurrahman, Shri Md.
 Jayalakshmi, Shrimati V.
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jharkhande Rai, Shri
 Jitendra Prasad, Shri
 Joarder, Shri Dinesh
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J.G.
 Kadannappalli, Shri Ramachandran
 Kader, Shri S.A.
 Kahandole, Shri Z.M.
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kamakshaiah, Shri D.
 Kamala Prasad, Shri
 Kamble, Shri T.D.
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B.R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R.K.
 Khan, Shri I.H.
 K. n. I. er Lal, Shri
 Kisku, Shri A.K.
 Kotoki, Shri Liladhar
 Kotrashetti, Shri A.K.
 Krishnan, Shri G.Y.
 Krishnappa, Shri M.V.
 Kulkarni, Shri Raja
 Kureel, Shri B.N.
 Kushok Bakula, Shri
 Lakappa, Shri K.
 Lakshminarayana, Shri M.R.
 Laskar, Shri Nibhr
 Lutfal Haque, Shri

Mahajan, Shri Vikram
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K.D.
 Malhotra, Shri Inder J.
 Mallanna, Shri K.
 Mandal, Shri Jagdish Narain
 Mandal, Shri Yamuna Prasad
 Manhar, Shri Bhagatram
 Mayathevar, Shri K.
 Mehta, Dr. Mahipatray
 Malkote, Dr. G.S.
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bibhuti
 Mishra, Shri G.S.
 Mishra, Shri Jagannath
 Modak, Shri Bijoy
 Mohammad Tahir, Shri
 Mohan Swarup, Shri
 Mohapatra, Shri Shyam Sunder
 Mohsin, Shri F.H.
 Mukerjee, Shri H.N.
 Munsai, Shri Priya Ranjan Das
 Murmu, Shri Yogesh Chandra
 Nahata, Shri Amrit
 Naik, Shri B.V.
 Nanda, Shri G.L.
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri Manikrao
 Pandey, Shri Damodar
 Pandey, Shri Krishna Chandra
 Pandey, Shri Narsingh Narlan
 Pandey, Shri R.S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Pandit, Shri S.T.
 Panigrahi, Shri Chintamani
 Pant, Shri K.C.
 Paokai Hackip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Parthasarathy, Shri P.

Paswan, Shri Ram Bhagat
 Patel, Shri Arvind M.
 Patel, Shri Natwarlal
 Patel, Shri Prabhudas
 Patel, Shri R.R.
 Patil, Shri Anantao
 Patil, Shri C.A.
 Patil, Shri E.V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S.B.
 Patil, Shri T.A.
 Patnaik, Shri Banamali
 Patnaik, Shri J.B.
 Paje, Shri S.L.
 Prabodh Chandra, Shri
 Pradhan, Shri Dhan Shah
 Pradhani, Shri K.
 Raghu Ramdas, Shri K.
 Rai, Shri S.K.
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P.V.G.
 Ram Dayal, Shri
 Ram Hedaoo, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Singh Bhai, Shri
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Ranabhadur Singh, Shri
 Rao, Shri Jagannath
 Rao, Dr. K.L.
 Rao, Shri K. Narayana
 Rao, Shri M.S. Sanjeevi
 Rao, Shri M. Satyanarayan
 Rao, Shri Nageswara
 Rao, Shri P. Ankineedu Prasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ray, Shrimati Maya
 Reddi, Shri P. Antony
 Reddy, Shri K. Kodanda Rami
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Bayapa

Reddy, Shri P. Narasimha
 Reddy, Shri P.V.
 Reddy, Shri Sidram
 Reddy, Shri Y. Eswara
 Richhariya, Dr. Govind Das
 Roy, Shri Biahwanath
 Roy, Dr. Saradish
 Saha, Shri Ajit Kumar
 Saini, Shri Mulki Raj
 Salt, Shri Ebrahim Sulaiman
 Salve, Shri N.K.P.
 Samanta, Shri S.C.
 Sambhali, Shri Ishaque
 Sanghi, Shri N.K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri Sakti Kumar
 Sathe, Shri Vasant
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Satyanarayana, Shri B.
 Savant, Shri Shankerrao
 Savitri Shyam, Shrimati
 Sayeed, Shri P.M.
 Shafee, Shri A.
 Shafquat Jung, Shri
 Shah Nawaz Khan, Shri
 Shailani, Shri Chandra
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shanker Dev, Shri
 Shankaranand, Shri B.
 Sharma, Shri A.P.
 Sharma, Dr. H.P.
 Sharma, Shri Mathoram
 Sharma, Shri Nawal Kishore
 Sharma, Shri R. N.
 Shastri Shri Biswanarayan
 Shastri, Shri Raja Ram
 *
 Shastri, Shri Ramavtar
 Shastri, Shri Sheopujan
 Shetty, Shri K.K.
 Shinde, Shri Anasaheb P.
 Shivappa, Shri N.
 Shukla, Shri B.R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S.M.
 Sureshwar Prasad, Prof.
 Sinha, Shri Dharam Bir

*Voted by mistake from a wrong seat and later informed the Speaker accordingly.

Sinha, Shri Nawal Kishore
 Sinha, Shri R.K.
 Sohan Lal, Shri T.
 Sookhi, Sardar Swaran Singh
 Somasundaram, Shri S. D.
 Stephen, Shri C.M.
 Subramaniam, Shri C.
 Sufarsanam., Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swamy, Shri Sitarameshwar
 Swaran Singh, Shri
 Tardekar, Shri V.B.
 Tayyab Hussain, Shri
 Tombi Singh, Shri N.
 Tulsiaram, Shri V.
 Ukey, Shri M.G.
 Unnikrishnan, Shri K.P.
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkateswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyalankar, Shri Amarnath
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri
 Viswanathan Shri G.
 Yadav, Shri Chandrajit
 Yadav, Shri D.P.
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Zulfiquar Ali Khan, Shri

NOES :

Patel, Shri Nanubhai N.

MR. SPEAKER: The result* of the division is:

AYES: 329; NOES : 1

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

*The motion was adopted :
 clause 2 was added to the Bill.*

MR. SPEAKER : There are some amendments tabled to this clause. Are the Members moving their amendments ?

SHRI B. V. NAIK : I am not moving.

SHRI RAJA KULKARNI : I am not moving.

SHRI C. K. CHANDRAPPA (Telli-cherry) : I beg to move :

Page 2,—

Omit lines 10 and 11. (8)

SHRI M. KATHAMUTHU (Nagapattinam) : I beg to move :

Pages 3 and 4,—

Omit lines 37 to 50 and 1 to 15, respectively. (9)

MR. SPEAKER : Amendment No. 11 is the same as 8.

SHRI DINESH JOARDER : I beg to move :

Page 2,—

Omit lines 16 and 17. (12)

SHRI C. K. CHANDRAPPA : The Minister said that the Prevention and Publication of Objectionable Matters Act, 1976 is a progressive Bill. I would like to point this out that at the time of discussion it has been made clear that it is a black Act. It seeks to prevent even the publication of such matters which are necessary to be published in a democratic system. We therefore consider this to be a black Act which should not be given Constitutional protection. In regard to progressive Acts only we give our support and our position is very clear. When you want to protect

*The following members also recorded their votes for AYES:—

Sarvaswari K. Chikkalingiah, D.N. Tiwary, R.V. Swaminathan, M. C. Daga, Shankar Tewari, Genda Singh, Jagadish Bhattacharyya and Shrimati Parvathi Krishnan.

[Shri C. K. Chandrabhan]
legislation which will help social advancement then only we will be for it. But at the same time we will not agree for the inclusion of any black Acts. This is a black Act. So, I press my amendment.

SHRI M. KATHAMUTHU : Sir, my intention in moving the amendment is only to bring to the notice of the Government that some defective Acts are also proposed to be included in the Ninth Schedule. For example, the Tamil Nadu Act which are 13 in number, which are proposed to be included, are not only defective, but they are not in conformity with the national guidelines. Instead of taking family as a unit for ceiling, individuals are allowed to have upto ceiling. In respect of exemptions, the guidelines have been violated. Therefore this is not in conformity with the national guidelines. In the 1970 Act, even though the ceiling was reduced from 30 to 15 standard acres, the then Government allowed the landowners to create trusts and divide the land in the names of minor children and grand-children in the male line. Such is the state of affairs of this Act. Now Tamil Nadu Government is under the President's rule. So, you should bring an ordinance to set things right.

I hope that the hon. Minister will accept my suggestion. So, I do not propose to press the amendment.

श्री रामावतार शास्त्री (पटना) : अध्यक्ष महोदय, परिशिष्ट 9 में इन कानूनों को रखने की व्यवस्था की जा रही है उसमें 130 नम्बर के कानून यानी पंक्ति 10 और 11 को मैं यहाँ से हटवाना चाहता हूँ क्योंकि जैसा और कई सदस्यों ने कहा यह काला कानून है। इससे ग्राम लोगों के हितों की रक्षा नहीं होती है। अगर चन्द स्विच स्वार्थ वालों के खिलाफ लड़ना हो और लड़ भी रहे हैं तो ऐसी खबरें अखबार वाले नहीं छाप सकते क्योंकि इसकी सलाख उन के गले पर लटक रही है।

तो इस तरह के कानून की तो आप परिशिष्ट 9 में डालना चाहते हैं लेकिन अध्यक्ष महोदय, आप भी जानते होंगे, मैं जानता हूँ कि बिहार में बहुत सारे कानून जो बन चुके हैं असेम्बली के द्वारा उन का किसी को भी जिक्र इस नाइन्थ शेड्यूल में नहीं किया गया है जैसे सूद-भरना कानून बना, जमीन के मार्ग के संबंध में कानून पास हो चुका है। होम-स्टीड एक्ट की इस में चर्चा नहीं की गई है, मनी लेण्डिंग एक्ट 1974 की इस में चर्चा नहीं की गई है। बिहार के शेड्यूल्ड कास्ट्स, शेड्यूल्ड ट्राइब्स, बैकवर्ड क्लासिज (एनेक्सर I) एण्ड डीनोटीफाइड ट्राइब्स डेट रिलीफ एक्ट 1974—ये सारे एक्ट्स पास हो चुके हैं, जिन्हें 9वें शेड्यूल में रखा जाना चाहिये था लेकिन आश्चर्य है कि सरकार ने इन कानूनों को इस में रखने की कोशिश नहीं की। हालांकि आपसि-जनक प्रकाशन के नाम पर उस कानून को इस में रखने की कोशिश की है। मैं जानना चाहूँगा—बिहार के इन कानूनों के बारे में सरकार ने इस में रखने को व्यवस्था क्यों नहीं की है ?

एक बात और आखिर मैं कहना चाहता हूँ—मिनिमम वेंजेज एक्ट, एग्जीक्यूटिव वर्कर्स के लिये मेरे ख्याल में तमाम जगह पास हुए हैं, लेकिन उनका इस में कहीं जिक्र नहीं है। खेत मजदूरों के लिये जो न्यूनतम मजदूरी के कानून बने हैं उन का क्या होगा ? मंत्री जी बताये कि बिहार के इन कानूनों को उन्होंने इसके दायरे से अलग क्यों रखा है ? अभी हम ने बहस की—कानून तो पास हो जायेगा, लेकिन उस के बावजूद जो लोग हाई कोर्ट में चले जायेंगे या सुप्रीम कोर्ट में जायेंगे उन के लिये क्या होगा और उन को आप कैस रोकेंगे। बिहार लैंड रिफॉर्म एक्ट पहले से ही 9वें शेड्यूल में रखा हुआ है—लेकिन अभी बिहार के मुख्य मंत्री ने प्रधान मंत्री जी को एक ज्ञापन पटना में पहुँची गई को दिया था, जिस में उन्होंने लिखा है—

"A large number of writ petitions and revision petitions are now pending in the different courts of law in the State, particularly in the High Court of Patna and in the Board of Revenue. Cases now pending in both these courts of Patna are estimated to account for 60,000 acres of land."

एक तरफ यह कानून पहले से 9वें शेड्यूल में रखा हुआ है, लेकिन उस के बावजूद मुख्य मंत्री का यह कहना है, प्रधान मंत्री जी को उन्होंने ज्ञापन दिया हुआ है—ये जो चीज हैं इन को कैसे रोकेंगे। इसलिए मेरा संशोधन है—इन कानूनों को प्रायः भ्रमल में लाये जो बिहार के बचे हुए कानून है उन को भी 9वें शेड्यूल में डाले, न कि प्रावधानबिल में डाले के कानून को जिस को कि प्रायः वे इस में डाल दिया है।

SHRI DINEN BHATTACHARYYA : Sir, I shall be very brief. I want to make it clear to the House and to you that we are not against the other Acts which have been included in this Bill. But, we are against item Nos. 130 and 133 for which we have given our amendments. About these two Acts, we have specially requested the hon. Minister as to why he has not excluded these from the Ninth Schedule. He had not understood us. He did not care even to satisfy the House. The Prevention of Publication of Objectionable Matter Act, 1976 can be a progressive law according to you where you have debarred the ordinary people even from printing the ordinary leaflets for bringing out their grievances to the notice of the public and the Government, by bringing in this Act in the Ninth Schedule you have debarred anyone from going to the court and challenging that Act. Then, why did you not bring in the Industrial Disputes (Amendment) Bill which we have passed only very recently which was pertaining to the lay-offs, lock-outs etc. requiring the employer to bring the matter to the

prior notice of the Government. Why did you not bring in that Act in the Ninth Schedule?

Why are you bringing in the Prevention of Publication of Objectionable Matter Act, 1976 in the Ninth Schedule? This is most astonishing. When this Act was passed we opposed that tooth and nail. And so we have moved the amendments. Secondly, you were talking in a casual manner about the Departmentalisation of Union Accounts as being a simple matter and this is done in public interest. It may be simple for you, Mr. Minister but if the man who is working in Calcutta is suddenly transferred to Bombay, then what will be his fate? This has not been considered by you.

These are the things which have been provided in your Act and, as such, we strongly oppose these items. We have no objection to others. As Mr. Indrajit Gupta mentioned it will have no effect if you do not give it a retrospective effect. Six lakhs of cases are pending in the courts. What will happen to them? Nothing will happen to them as per your explanation. So, I move my amendment and expect that even at this stage the Minister will be good enough to give due consideration to it and accept the amendment.

SHRI N. SREEKANTAN NAIR (Quilon) : Sir, I want to say a word, Sir, when Constitution amendment Bills are moved and division is called for it is not consistent with parliamentary practice to go for division without clearing the lobbies at every stage and on every occasion. If it is a balanced House coming into the House of a few Members at any stage can defeat some clauses of the Constitution Amendment Bill or throw the entire Bill out. Therefore, Sir, I had to break the doors of the lobby in connection with the National Language Bill. So, this right of the Members to come in and

[Shri N. Sreekantan Nair]

vote down a Constitution Amendment Bill at any time has got to be protected.

MR. SPEAKER : That practice is followed.

SHRI INDRAJIT GUPTA : Sir, would the Minister not like to reply ? I want to know are they prepared to take a second look at the Tamil Nadu legislation which do not conform to national guidelines. Secondly, what about Mr. Shastri's reference to a whole host of progressive social legislations passed in Bihar which are not included here ? Why have they been left out ?

DR. V.A. SEYID MUHAMMAD : Regarding Tamil Nadu legislation all the thirteen are the amending acts. The mother act is already in the Ninth Schedule. These are all amendments to that. Even the first is an amending Act. These are all amending acts.

As regards Bihar, the practice is when the Bihar Government sends the matter we will examine the same and then put it in the Ninth Schedule. We do not go around and ask if they have got any Act to be put in the Ninth Schedule. (Interruptions).

MR. SPEAKER : Shri Kathamuthu wants to withdraw his amendment. Is it the pleasure of the House ?

Amendment No 9 was, by leave, withdrawn.

MR. SPEAKER : Now, I will put amendment No. 8 moved by Shri Chandrappan to the vote of the House.

The lobbies have been cleared. I shall now put Shri Chandrappan's amendment to the vote of the House.

The question is :

'Page 2,—

Omit lines 10 and 11.'(8)

The Lok Sabha divided :

Division No. 15]

[17.50 hrs.

AYES

Banerjee, Shri S.M.
Basappa, Shri K*
Bhargavi Tharkappa, Shrimati
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri Jagadish
Bhattacharyya, Shri S.P.
Bhaura, Shri B.S.
Chandra Shekhar Singh, Shri
Chandrappan, Shri C.K.
Chatterjee, Shri Somnath
Chavda, Shri S.K.
Chowhan, Shri Bharat Singh
Deb, Shri Dasaratha
Dutta, Shri Biren
Goswami, Shrimati Bibha Ghosh
Gupta, Shri Indrajit
Halder, Shri Krishna Chandra
Hazra, Shri Manoranjan
Jha, Shri Bhogendra
Jharkhande Rai, Shri
Joarder, Shri Dinesh
Kathamuthu, Shri M.
Krishnan, Shrimati Parbathi
Mayathevar, Shri K.
Modak, Shri Bijoy
Mukerjee, Shri H.N.
Nair, Shri Sreekantan
Pandey, Shri Sarjoo
Patel, Shri Nanubhai N.
Roy, Dr. Saradish
Saha, Shri Ajit Kumar
Sambhali, Shri Ishaque
Shafaquat Jung, Shri*
Shastri, Shri Ramavatar
Somasundaram, Shri S.D.
Viswanathan, Shri G.

*Wrongly voted for AYES.

NOES

Achal Singh, Shri
 Aga, Shri Syed Ahmed
 Agrawal, Shri Shrikrishna
 Ahirwar, Shri Nathu Ram
 Alagesan, Shri O. V.
 Anand Singh, Shri
 Ansari, Shri Ziaur Rahman
 Appalanaidu, Shri
 Austin, Dr. Henry
 Awdhesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Aziz Imam, Shri
 Babunath Singh, Shri
 Bajpai, Shri Vidya Dhar
 Balakrishnaiah, Shri T.
 Banamali Babu, Shri
 Banerjee, Shrimati Mukul
 Barman, Shri R. N.
 Barua, Shri Bedabrata
 Barupal, Shri Panna Lal
 Basumatari, Shri D.
 Basra, Shri S. C.
 Bhagat, Shri H. K. L.
 Bhargava, Shri Basheshwar Nath
 Bhatia, Shri Raghunandan Lal
 Bheeshamadev, Shri M.
 Bhuvarahan, Shri G.
 Bist, Shri Narendra Singh
 Brahmanandji, Shri Swami
 Brij Raj Singh-Kotah, Shri
 Buta Singh, Shri
 Chakleshwar Singh, Shri
 Chandra Gowda, Shri D. B.
 Chandrakar, Shri Chandulal
 Chandrasekharappa Veerabasappa, Shri T.V.
 Charurvedi, Shri Rohan Lal
 Chaudhari, Shri Amarsinh
 Chaudhary, Shri Nitiraj Singh
 Chavhan, Shrimati Premalabai
 Chavan, Shri Yeshwantrao
 Chellachami, Shri A. M.
 Chhotey Lal, Shri
 Chhuttan Lal Shri
 Chikkalingaiah, Shri K.
 Choudhary, Shri B. E.
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.

Darbara Singh, Shri
 Das, Shri Anadi Charan
 Das, Shri Dharmidhar
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Das, Shri S. N. Singh
 Desai, Shri D. D.
 Deshmukh, Shri K. G.
 Dhamankar, Shri
 Dharamraj Singh, Shri
 Dhillon, Dr. G. S.
 Dhnsia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dumada, Shri L. K.
 Dwivedi, Shri Nageshwar
 Engti, Shri Biren
 Gaekwad, Shri Fatesingh Rao
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Gautam, Shri C. D.
 George, Shri A. C.
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Giri, Shri S. B.
 Godara, Shri Manj Ram
 Godfrey, Shrimati M.
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gomanjo, Shri Giridhar
 Gokarni, Shri Dinesh Chandra
 Gowda, Shri Pampan
 Hunsda, Shri Subodh
 Hari Singh, Shri
 Hashim, Shri M. M.
 Jadeja, Shri D. P.
 Jaffer Sharief, Shri C. K.
 Jamilurrahman, Shri Md.
 Jeyalakshmi, Shrimati V.
 Jha, Shri Chiranjib
 Jitendra Prasad, Shri
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kallurappalli, Shri Ramachandran
 Kader, Shri S. A.
 Kalandole, Shri Z. M.
 Kailas, Dr.

Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kamakshiah, Shri D.
 Kamala Prasad, Shri
 Kamble, Shri T. D.
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khan, Shri I. H.
 Kinder Lal, Shri
 Kishku, Shri A. K.
 Kotaki, Shri Liladhar
 Kotrashetti, Shri A. K.
 Krishnan, Shri G. Y.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshminarayanan, Shri M. R.
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahishi, Dr. Serojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malhotra, Shri Inder J.
 Malanna, Shri K.
 Mandal, Shri Jagdish Narain
 Mandal, Shri Yamuna Prasad
 Manhar, Shri Bhagatram
 Mehta, Dr. Mahipatray
 Melkote, Dr. G. S.
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mohammad Tahir, Shri
 Mohan Swarup, Shri
 Mohapatra, Shri Shyam Sunder
 Mohsin, Shri F. H.
 Munsri, Shri Priya Ranjan Das
 Murmu, Shri Jogesh Chandra
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Negi, Shri Partap Singh
 Nimbalkar, Shri

Oraon, Shri Kartik
 Oraon, Shri Tuna
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri Manikrao
 Pandey, Shri Damodar
 Pandey, Shri Krishna Chandra
 Pandey, Shri Narsingh Narain
 Pandey, Shri R. S.
 Pandey, Shri Sudhakar
 Pandey, Shri Tarakeshwar
 Pandit, Shri S. T.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Parthasarathy, Shri P.
 Patel, Shri Arvind M.
 Patel, Shri Natwarlal
 Patel, Shri Prabhudas
 Patel, Shri R. R.
 Patil, Shri Anant Rao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Prabodh Chandra, Shri
 Pradhan, Shri Dhan Shah
 Pradhani, Shri K.
 Raghu Ramaiah, Shri K.
 Rai, Shri S. K.
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P. V. G.
 Ram Daval, Shri
 Ram Sewak, Ch.
 Ram Singh Bhai, Shri
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ramji Ram, Shri
 Ramshekar Prasad Singh, Shri
 Ranabhadur Singh, Shri
 Rao, Shri Jagannath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri M. S. Sanjeevi

Rao, Shri Nageswara
 Rao, Shri P. Ankineedu Prasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rathia Shri Umad Singh
 Raut, Shri Bhola
 Ray, Shrimati Maya
 Reddi, Shri P. Antony
 Reddy, Shri K. Kodanda Rama
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Bayapa
 Reddy, Shri P. Narasimha
 Reddy, Shri P. V.
 Reddy, Shri Sidram
 Richhariya, Dr. Gobind Das
 Ravi, Shrimati Sushila
 Roy, Shri Biswanath
 Saini, Shri Mulki Raj
 Salve, Shri N. K. P.
 Sanghi, Shri N. K.
 Sarvata Prasad, Dr.
 Satish Singh, Shri
 Satre, Shri Vasant
 Satish Chandra, Shri
 Sarpathy, Shri Devendra
 Satyanarayana, Shri B.
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayeed, Shri P. M.
 Shafee, Shri A.
 Shah Nawaz Khan, Shri
 Shailani, Shri Chandra
 Shambhu Nath, Shri
 Shankar Dyal Singh, Shri
 Sankar Dev, Shri
 Shankaranand, Shri B.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri Nawal Kishore
 Sharma, Shri R. N.
 Shastri, Shri Biswanarayan

Shastri, Shri Raja Ram
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shivappa, Shri N.
 Shukla, Shri B. R.
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Prof.
 Sinha, Shri Dharam Bir
 Sinha, Shri Nawal Kishore
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Sardar Swaran Singh
 Subramaniam, Shri C.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidhameshwar
 Swaran Singh, Shri
 Tarodekar, Shri V. B.
 Tayyab Hussain, Shri
 Tewari, Shri Shankar
 Thakur, Shri Krishnarao
 Tewari, Shri D. N.
 Tombi Singh, Shri N.
 Tulsi Ram, Shri V.
 Ukey, Shri M. G.
 Unnikrishnan, Shri K. P.
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyalkar, Shri Amarnath
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajit
 Yadav, Shri D. P.
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Zulfikar Ali Khan, Shri

MR. SPEAKER : The result* of the division is :

Ayes : 36; Noes : 287.

The motion was negatived.

*The following Members also recorded their votes :

AYES : Shri Y. Eswara Reddy.

NOES : Sirvashri K. D. Malaviya, Chapalendu Bhattacharyya,
 J. P. Dube, Sakti Kumar Sarkar, K. Basappa and
 Shafquat Jang.

MR. SPEAKER : I shall not put amendment No. 12 moved by Shri Dinesh Joarder to the vote of the House. The lobbies are already cleared. The question is :

Page 2,—

Omit lines 16 and 17.* (12)
The Lok Sabha divided:

Division No. 16] [17. 52 hrs.

AYES

Banerjee, Shri S. M.
Bhargavi Thankappan, Shrimati
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri Jagadish
Bhattacharyya, Shri S. P.
Bhaura, Shri B.S.
Chandra Shekhar Singh, Shri
Chandrappan, Shri C. K.
Chavda, Shri K.S.
Chowhan, Shri Bharat Singh
Deb, Shri Dasaratha
Dutta, Shri Biren
Goswami, Shrimati Bibha Ghosh
Gupta, Shri Indrajit
Halder, Shri Krishna Chandra
Hazra, Shri Manoranjan
Jha, Shri Bhogendra
Jharkhande Rai, Shri
Joarder, Shri Dilish
Kathamuthu, Shri M.
Krishnan, Shrimati Parvathi
Mayathevar, Shri K.

Mirdha, Shri Nathu Ram*
Modak, Shri Bijoy
Mukerjee, Shri H.N.
Pandey, Shri Sarjoo
Patel, Shri Nanubhai N.
Roy, Dr. Saradish
Saha, Shri Ajit Kumar
Sambhali, Shri Ishaque
Sharma, Shri R. N.*
Shastri, Shri Ramavater
Somasundaram, Shri S. D.
Viswanathan, Shri G.

NOES

Achal Singh, Shri
Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O. V.
Anand Singh, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishnaiah, Shri T.
Banamali Babu, Shri
Banerjee, Shrimati Mukul
Burman, Shri R. N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri KJ
Basumatari, Shri D.
Bera, Shri S. C.
Bhagat, Shri H. K. L.
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyya, Shri Chapalendu
Bheeshmadev, Shri M.
Bhuvanahan, Shri G.
Bist, Shri Narendra Singh

* Wrongly voted for AYES

Brahmamandji, Shri Swami
 Brij Raj Singh-Kotah, Shri
 Buta Singh, Shri
 Chakreshwar Singh, Shri
 Chandra Gowda, Shri D. B.
 Chandraker, Shri Chandu Lal
 Chandrashekharappa Veeerabassappa,
 Shri T. V.
 Chaturvedi, Shri Rohan Lal
 Chaudhari, Shri Amarsinh
 Chaudhary, Shri Nitiraj Singh
 Chavan, Shrimati Premulabai
 Chavan, Shri Yeshwantrao
 Chellachami, Shri A. M.
 Chhotey Lal, Shri
 Chhuttan Lal, Shri
 Chikkalingalah, Shri K.
 Ghoudhary, Shri B. E.
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.
 Darbara Singh, Shri
 Das, Shri Anadi Charan
 Das, Shri Dharmidhar
 Dasappa, Shri Tulsidas
 Daschowdhary, Shri B. K.
 Deo, Shri S. N. Singh
 Desai, Shri D. D.
 Deshmukh, Shri K. G.
 Dhamankar, Shri
 Dharamraj Singh, Shri
 Dillon, Dr. G. S.
 Dhusia, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri Jagdish Chandra
 Dube, Shri J. P.
 Dumata, Shri L. K.
 Dwivedi, Shri Nageshwar
 Engti, Shri Biren
 Gackwad, Shri Fatesingh Rao
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Ganga Devi, Shrimati
 Gangaob, Shri P.
 Gautam, Shri C. D.
 George, Shri A. C.
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Gird, Shri S. B.

Godara, Shri Mani Ram
 Godfrey, Shrimati M.
 Gogoi, Shri Tarun
 Gohain, Shri C. C.
 Gomungo, Shri Giridhar
 Goswami, Shri Dinesh Chandra
 Gowda, Shri Pampat
 Hansda, Shri Subodh
 Hari Singh, Shri
 Hashim, Shri M. M.
 Jadeja, Shri D. P.
 Jaffer Sharief, Shri C. K.
 Jamilurrahman, Shri Md.
 Jeyalakshmi, Shrimati V.
 Jha, Shri Chiranjib
 Jitendra Prasad, Shri
 Joshi, Shrimati Subhadra
 Kadam, Shri Dattajirao
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kader, Shri S. A.
 Kahandole, Shri Z. M.
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kamakshajah, Shri D.
 Kamala Prasad, Shri
 Kamble, Shri T. D.
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khan, Shri I. H.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotaki, Shri Liladhar
 Kotrashetti, Shri A. K.
 Krishnan, Shri G. Y.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kureel, Shri B. N.
 Kushok Bakul, Shri
 Lakkappa, Shri K.
 Lakshminarayanan, Shri M. R.
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahishi, Dr. Sarojini

Majhi, Shri Gajlathar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Malhotra, ShriINDER J.
 Mallanna, Shri K.
 Mandal, Shri Jagdish Narain
 Mandal, Shri Yamuna Prasad
 Manhar, Shri Bhagatram
 Mehta, Dr. Mahipatray
 Melkote, Dr. G. S.
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mohammad Tahir, Shri
 Mohan Swarup, Shri
 Mohapatra, Shri Shyam Sunder
 Mohsin, Shri F. H.
 Munsii, Shri Priya Ranjan Das
 Murmu, Shri Yogesh Chandra
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri Manikrao
 Pandey, Shri Damodar
 Pandey, Shri Krishna Chandra
 Pandey, Shri Narsingh Narain
 Pandey, Shri R. S.
 Pandey, Shri Suthakar
 Pandey, Shri Tarkeshwar
 Pandit, Shri S. T.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Parthasarathy, Shri P.
 Patel, Shri Arvind M.
 Patel, Shri Natwarlal
 Patel, Shri Prabhu Das
 Patel, Shri R. R.

Patil, Shri Anant Rao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Peje, Shri S. L.
 Prabodh Chandra, Shri
 Pradhan, Shri Dhan Sheh
 Pradhani, Shri K.
 Raghu Ramaiiah, Shri K.
 Rai, Shri S. K.
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P. V. G.
 Ram Dayal Shri
 Ram Sewak, Ch.
 Ram Singh Bhai, Shri
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Ranabhadur Singh, Shri
 Rao, Shri Jagannath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri M. S. Sanjeevi
 Rao, Shri Nageswara
 Rao, Shri P. Ankineedu Prasad
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ray, Shrimati Maya
 Reddi, Shri P. Antony
 Reddy, Shri K. Kodanda Ram
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Bayapa
 Reddy, Shri P. Narasimha
 Reddy, Shri P. V.
 Reddy, Shri Sidram
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Saini, Shri Mulki Raj
 Salve, Shri N. K. P.
 Samanta, Shri S. C.

Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sathu, Shri Vasant
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Satyanarayana, Shri B.
 Savant, Shri Shankarrao
 Savitri Shyam, Shrimati
 Sayeed, Shri, P. M.
 Shaffer, Shri A.
 Shafquat Jung, Shri
 Shah Nawaz Khan, Shri
 Sheilant, Shri Chandra
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri Nawal Kishore
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Sheopujan
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shivappa, Shri N.
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Prof.
 Sinha, Shri Dharam Bir
 Sinha, Shri Nawal Kishore
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Sardar Swaran Singh
 Stephen, Shri C. M.
 Subramaniam, Shri C.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Tardakar, Shri V. B.

Tayyab Hussain, Shri
 Tewari, Shri Shankar
 Thakur, Shri Krishnaro
 Tiwary, Shri D. N.
 Tombi Singh, Shri N.
 Tulsiram, Shri V.
 Ulkey, Shri M. G.
 Unnikrishnan, Shri K. P.
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyalankar, Shri Amarnath
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajit
 Yadav, Shri D. P.
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Zulfikar Ali Khan, Shri
 MR. SPEAKER : The result* of the
 division is :

Ayes: 34; Noes: 294.

The motion was negatived

SHRI DINEN BHATTACHARYYA .
 Sir, with your permission, we record our
 protest against the inclusion of items 130
 and 133, namely, The Prevention of Pub-
 lication of Objectionable Matter Act, 1976
 and The Departmentalisation of Union
 Accounts (Transfer of Personnel) Act, 1976
 in the ninth schedule. We walk out in
 protest.

Shri Dinen Bhattacharyya and some
 other hon. members then left the House

MR. SPEAKER : The lobbies are
 cleared. The question is :

"That clause 3 stand part of the Bill"

* The following Members also recorded their votes:—

AYES : Shri Y. Eswara Reddy.

NOES : Sarvaswari Sakti Kumar Sarkar, R. N. Sharma and Nathu Ram Mirdha.

The Lok Sabha divided :

[Division No. 17]

[17.55 hrs.]

AYES

Achal Singh, Shri
Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O. V.
Anand Singh, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishnaiah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S. M.
Banerjee, Shrimati Mukul
Barman, Shri R. N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari, Shri D.
Bera, Shri S. C.
Bhagat, Shri H. K. L.
Bhargava, Shri Besheshwar Nath
Bhargavi Thankappan, Shrimati
Bhatia, Shri Raghunandan Lal
Bhattacharyya, Shri Chapalendu
Bhausa, Shri B. S.
Bheshmadev, Shri M.
Bhuvarahan, Shri G.
Bisr, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri

Buta Singh, Shri
Chakreshwar Singh, Shri
Chandra Gowda, Shri D. B.
Chandra Shekhar Singh, Shri
Chandrakar, Shri Chandulal
Chandrappan, Shri C. K.
Chandrashekhara Veeerabesappa,
Shri T.V.
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chellachami, Shri A. M.
Chhotey Lal, Shri
Chhuttan Lal, Shri
Chukkalingaiah, Shri K.
Choudhary, Shri B. E.
Daga, Shri M. C.
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S. R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulcidas
Daschowdhury, Shri B. K.
Deo, Shri S. N. Singh
Desai, Shri D. D.
Deshmukh, Shri K.G.
Dhamankar, Shri
Dharamraj Singh, Shri
Dhillon, Dr. G. S.
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Dube, Shri J. P.
Dumada, Shri L. K.
Dwivedi, Shri Nageshwar
Engti, Shri Biren

Gaekwad, Shri Fatesingh Rao
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.]
 Ganga Devi, Shrimati
 Gangadeb, Shri P.
 Gautam, Shri C. D.
 George, Shri A. C.
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh
 Giri, Shri S. B.
 Godara, Shri Mani Ram
 Godfrey, Shrimati M.
 Gogoi, Shri Tarun
 Gohain, Shri C.C.
 Gomango, Shri Giridhar
 Goswami, Shri Dinesh Chandra
 Gowda, Shri Pampan
 Hansda, Shri Subodh
 Hari Singh, Shri
 Hashim, Shri M. M.
 Jadeja, Shri D. P.
 Jaffer Sharief, Shri C. K.
 Jamulurrahman, Shri Md.
 Jeyalakshmi, Shrimati V.
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jharkhande Rai, Shri
 Jitendra Prasad, Shri
 Joshi, Shrimati Subhadra
 Kadam, Shri J.G.
 Kadannappalli, Shri Ramachandran
 Kader, Shri S. A.
 Kahandole, Shri Z.M.
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kamakshiah, Shri D.
 Kamala Prasad, Shri
 Kamble, Shri T.D.
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khan, Shri I. H.
 Kinder Lal, Shri
 Kisku, Shri A. K.
 Kotaki, Shri Liladhar
 Kotraschetti, Shri A.K.
 Krishnan, Shri G.Y.
 Krishnappa, Shri M.V.

Kulkarni, Shri Raja
 Kureel, Shri B.N.
 Kushok Bakula, Shri
 Lakshappa, Shri K.
 Lakshminarayanan, Shri M.R.
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram
 Mahajan, Shri Y.S.
 Maharaj Singh, Shri
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K.D.
 Malhotra, Shri Inder J.
 Mallanna, Shri K.
 Mandel, Shri Jagdish Narain
 Manhar, Shri Bhagatram
 Mayathever, Shri K.
 Mehta, Dr. Mahipatray
 Melkote, Dr. G.S.
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mohammad Tahir, Shri
 Mohan Swarup, Shri
 Mohapatra, Shri Shyam Sunder
 Mohsin, Shri F.H.
 Munsli, Shri Priya Ranjan Das
 Murmu, Shri Yogesh Chandra
 Nahata, Shri Amrit
 Naik, Shri B.V.
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tura
 Pabalia, Shri Jagannath
 Painuli, Shri Paripoomanand
 Palodkar, Shri Manikrao
 Pandey, Shri Damodar
 Pandey, Shri Krishna Chandra
 Pandey, Shri Narsingh Narain
 Pandey, Shri R.S.
 Pandey, Shri Sarjoo
 Pandey, Shri Suchakra
 Pandey, Shri Tarakeshwar
 Pandit, Shri S.T.
 Panigrahi, Shri Chintamani
 Pant, Shri K.C.
 Pankaj Haokip, Shri

Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Parthasarathy, Shri P.
 Patel, Shri Arvind M.
 Patel, Shri Natwarlal
 Patel, Shri Prabhudas
 Patel, Shri R.R.
 Patil, Shri Anant Rao
 Patil, Shri C.A.
 Patil, Shri E.V. Vikhe
 Patil, Shri Keshvarao
 Patil, Shri S.B.
 Patil, Shri T.A.
 Patnaik, Shri Banamali
 Patnaik, Shri J.B.
 Peje, Shri S.L.
 Parbodh Chandra, Shri
 Pradhan, Shri Dhan Shah
 Pradhani, Shri K.
 Raghu Ramaiah, Shri K.
 Rai, Shri S.K.
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P. V. G.
 Ram Dayal, Shri
 Ram Hedao, Shri
 Ram Sewak, Ch.
 Ram Singh Bhai, Shri
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ramji Ram, Shri
 Ramshankar Prasad Singh, Shri
 Ranabahadur Singh, Shri
 Rao, Shri Jagannath
 Rao, Dr. K.L.
 Rao, Shri K. Narayana
 Rao, Shri M.S. Sanjeevi
 Rao, Shri Nageswara
 Rao, Shri P. Ankincedu Prasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ray, Shrimati Maya
 Reddy, Shri P. Antony
 Reddy, Shri K. Kodanda Rami
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Bayapa
 Reddy, Shri P. Narasimha
 Reddy, Shri P.V.

Reddy, Shri Sidram
 Reddy, Shri Y. Swara
 Richhariya, Dr. Govind Das
 Rghatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Saini, Shri Mulki Raj
 Sait, Shri Ebrahim Sulaiman
 Salve, Shri N.K.P.
 Samanta, Shri S.C.
 Sambhali, Shri Ishaque
 Sanghi, Shri N.K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri Sakti Kumar
 Sathe, Shri Vasant
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Satyanarayana, Shri B.
 Savant, Shri Shankerrao
 Sayee, Shri P.M.
 Shafec, Shri A.
 Shafquat Jung, Shri
 Shahnawaz Khan, Shri
 Shailani, Shri Chandra
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Sharma, Shri A.P.
 Sharma, Dr. H.P.
 Sharma, Shri Maithoram
 Sharma, Shri Nawal Kishore
 Sharma, Shri R.N.
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Sheopujan
 Shetty, Shri K.K.
 Shinde, Shri Annasaheb P.
 Shivappa, Shri N.
 Shukla, Shri B.R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S.M.
 Siddheshwar Prasad, Prof.
 Sinha, Shri Dharam Bir
 Sinha, Shri Nawal Kishore
 Sinha, Shri R.K.
 Sohan Lal, Shri T.
 Sokhi, Sardar Swaran Singh
 Somasunderam, Shri S.D.
 Stephen, Shri C.M.

Subramaniam, Shri C.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R.V.
 Swamy, Shri Siddhameshwar
 Swaran Singh, Shri
 Tarodekar, Shri V.B.
 Tayyab Hussain, Shri
 Tewari, Shri Shankar
 Thakur, Shri Krishnarao
 Tiwary, Shri D.N.
 Tombi Singh, Shri N.
 Tulsiram, Shri V.
 Ukikey, Shri M.G.
 Unnikrishnan, Shri K.P.
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyalankar, Shri Amarnath
 Vikal, Shri Ram Chandra
 Virbhandra Singh, Shri
 Viswanathan, Shri G.
 Yadav, Shri D.P.
 Yadav, Shri Karan Singh
 Yadav, Shri N.P.
 Yadav, Shri R. P.
 Zulfiqar Ali Khan, Shri

NOES

Nil

MR. SPEAKER : The result* of the division is :

Ayes : 311 ; Noes : Nil

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The motion was adopted.

Clause 3 was added to the Bill.

Clause 1 (Short title)

MR. SPEAKER : There is one Government amendment. This requires only a simple majority.

Amendment made :

Page 1, lines 3 and 4, for "(Forty-second Amendment)" substitute
 "(Fortieth Amendment)" (13)

(Dr. V.A. Seyid Muhammad)

MR. SPEAKER : Now, I shall put Clause 1 as amended. This requires only a simple majority. The question is :

"That Clause 1, as amended, stand part of the Bill"

The motion was adopted.

Clause 1, as amended, was added to the Bill

MR. SPEAKER : Now, I shall put the Enacting Formula and the Title together. This also requires a simple majority. The question is :

"That the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

The Enacting Formula and the Title were added to the Bill.

DR. V.A. SEYID MUHAMMAD :
 I beg to move :

"That the Bill, as amended, be passed."

*The following Members also recorded their votes for AYES :—

Sarvashri Chandrajit yadav, yamuna Prasad Mandal, Dattajirao Kadam
 and Shrimati Savitri Shyam.

MR. SPEAKER : The question is

"That the Bill, as amended, be passed"

The Lok Sabha divided.

Division No. 18]

[28.00 hr

AYES

Achal singh, Shri
Aga, Shri Syed Ahmed
Agarwal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O.V.
Anand Singh, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S.N.
Banerjee, Shrimati Mukul
Barman, Shri R.N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari, Shri D.
Bera, Shri S.C.
Bhagat, Shri H.K.L.
Bhargava, Shri Basheshwar Nath
Bhargavi Thankappan, Shrimati
Bhatia, Shri Raghunandan Lal
Bhattacharyya, Shri Chapalendu
Bhausa, Shri B.S.
Bheeshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Gowda, Shri D.B.
Chandra Shekhar Singh, Shri
Chandrakar, Shri Chandulal
Chandrappan, Shri C.K.
Chandrashekarappa Veerabassappa,
Shri T.V.

Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chellachami, Shri A.M.
Chhotey Lal, Shri
Chhuttan Lal, Shri
Chikkalingaiah, Shri K.
Choudhary, Shri B.E.
Daga, Shri M.C.
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S.R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Das chowdhury, Shri B.K.
Deo, Shri S.N. Singh
Desai, Shri D.D.
Deshmukh, Shri K.G.
Dhamankar, Shri
Dharamgaj Singh, Shri
Dhillon, Dr. G.S.
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G.C.
Dixit, Shri Jagdish Chandra
Dube, Shri J.P.
Dumada Shri L.K.
Dwivedi, Shri Nageshwar
Engti, Shri Biren
Gaekwad, Shri Fatesinghrao
Gandhi, Shrimati Indira
Ganesh, Shri K.R.
Gangadeb, Shri P.
Gautam, Shri C.D.
George, Shri A.C.
Ghosh, Shri P.K.
Gill, Shri Mohinder Singh
Giri, Shri S.B.
Godara, Shri Mani Ram
Godfrey, Shrimati M.
Gogoi, Shri Tarun
Gohain, Shri C.C.
Gomango, Shri Giridhar
Goswami, Shri Dinesh Chandra
Gowda, Shri Pampan
Gupta, Shri Indrajit

Hanada, Shri Subodh
 Hari Singh, Shri
 Hashim, Shri M. M.
 Jadeja, Shri D. P.
 Jaffer Sharief, Shri C. K.
 Jamilurrahman, Shri Md.
 Jeyalakshmi, Shrimati V.
 Jha, Shri Bhogendra
 Jha, Shri Chiranjib
 Jharkhande Rai, Shri
 Jitendra Prasad, Shri
 Joshi, Shrimati Subhadra
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kader, Shri S. A.
 Kahandole, Shri Z. M.
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kamakshaiah, Shri D.
 Kamala Prasad, Shri
 Kamble, Shri T. D.
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khan, Shri I. H.
 Kisku, Shri A. K.
 Kotoki, Shri Liladhar
 Kotrashetti, Shri A. K.
 Krishnan, Shri G. Y.
 Krishnan, Shrimati Parvathi
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lakkappa, Shri K.
 Lakshminarayanan, Shri M. R.
 Laskar, Shri Nihar
 Lutfal Haque, Shri
 Mahajan, Shri Vikram
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Malhotra, Shri Inder J.
 Mallanna, Shri K.

Mandal, Shri Jagdish Narain
 Manhar, Shri Bhagatram
 Mayathevar, Shri K.
 Mehta, Dr. Mahipatray
 Melkotel Dr. G. S.
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mishra, Shri Jagannath
 Mohammad Tahir, Shri
 Mohan Swarup, Shri
 Mohapatra, Shri Shyam Sunder
 Mohsin, Shri F. H.
 Mukerjee, Shri H. N.
 Munsri, Shri Priya Ranjan Das
 Murmu, Shri Yogesh Chandra
 Nahata, Shri Amrit
 Naik, Shri B. V.
 Negi, Shri Pratap Singh
 Nimbalkar, Shri
 Oraon, Shri Kartik
 Oraon, Shri Tuna
 Pahadia, Shri Jagannath
 Painuli, Shri Paripoornanand
 Palodkar, Shri Manikrao
 Pandey, Shri Damodar
 Pandey, Shri Krishna Chandra
 Pandey, Shri Narsingh Narain
 Pandey, Shri R. S.
 Pandey, Shri Sarjoo
 Pandey, Shri Sudhakar
 Pandey, Shri Tarkeshwar
 Pandit, Shri S. T.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parashar, Prof. Narain Chand
 Parikh, Shri Rasiklal
 Parthasarthy, Shri P.
 Patel, Shri Arvind M.
 Patel, Shri Natwarlal
 Patel, Shri Prabhudas
 Patel, Shri R. R.
 Patil, Shri Anantrao
 Patil, Shri C. A.
 Patil, Shri E. V. Vikhe
 Patil, Shri Krishnarao
 Patil, Shri S. B.
 Patil, Shri T. A.
 Patnaik, Shri Banamali
 Patnaik, Shri J. B.

Peje, Shri S. L.
 Pradhan, Shri Dhan Shah
 Pradhani, Shri K.
 Raghu Ramaiah, Shri K.
 Rai, Shri S. K.
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P. V. G.
 Ram Dayal, Shri
 Ram Hedao, Shri
 Ram Sewak, Chowdhary
 Ram Singh Bhai, Shri
 Ram Surat Prasad, Shri
 Ram Swarup, Shri
 Ramji Ram, Shri
 Ramshekhar Prasad Singh, Shri
 Ranabahadur Singh, Shri
 Rao, Shri Jagannath
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri M. S. Sanjeevi
 Rao, Shri Nagewara
 Rao, Shri P. Ankineedu Prasad
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rathia, Shri Umed Singh
 Raut, Shri Bhola
 Ray, Shrimati Maya
 Reddi, Shri P. Antony
 Reddy, Shri K. Kodanda Rami
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Bayapa
 Reddy, Shri P. Narasimha
 Reddy, Shri P. V.
 Reddy, Shri Sidram
 Reddy, Shri Y. Eswara
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Saini, Shri Mulki Raj
 Sait, Shri Ebrahim Sulaiman
 Salve, Shri N. K. P.
 Samanta, Shri S. C.
 Sambhali, Shri Ishaque
 Sanghi, Shri N. K.
 Sankta Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri Sakti Kumar

Satish Chandra, Shri

Satpathy, Shri Devendra
 Satyanarayana, Shri B.
 Savant, Shri Shankerrao
 Savitri Shyam, Shrimati
 Sayeed, Shri P. M.
 Shafee, Shri A.
 Shafquat Jung, Shri
 Shah Nawaz Khan, Shri
 Shailani, Shri Chandra
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri Naval Kishore
 Sharma, Shri R. N.
 Shastri, Shri Biswanarayan
 Shastri, Shri Raja Ram
 Shastri, Shri Ramavatar
 Shastri, Shri Sheopujan
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shivappa, Shri N.
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Prof.
 Sinha, Shri Dharam Bir
 Sinha, Shri Nawal Kishore
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Sardar Swaran Singh
 Somasundaram, Shri S. D.
 Stephen, Shri C. M.
 Subramaniam, Shri C.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Tarodekar, Shri V. B.
 Tayyab Hussain, Shri
 Tewari, Shri Shankar
 Thakur, Shri Krishnarao
 Tiwary, Shri D. N.
 Tombi Singh, Shri N.
 Tulsiaram, Shri V.

Ulkey, Shri M. G.
 Unnikrishnan, Shri K. P.
 Vekaria, Shri N. R.
 Venkatasubbaiah, Shri P.
 Venkateswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyasankar, Shri Amarnath
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri
 Viswanathan, Shri G.
 Yadav, Shri Chandrajit
 Yadav, Shri D. P.
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Zulfikar Ali Khan, Shri

NOES

Kadam, Shri Dattajirao

MR. SPEAKER : The result of the division is :

Ayes : 313; Noes : 1

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The motion was adopted.

MR. SPEAKER : We have done good work today. Now, we adjourn to meet tomorrow at 11 A.M.

17.58 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, May, 26, 1976/Jyaistha 5, 1898 (Saka).

§Wrongly voted for NOES.

§The following Members also recorded their votes for AYES :—

Sarvashri Yamuna Prasad Mandal,
 Kinder Lal and Dattajirao Kadam